

SESSION LAWS OF MISSOURI

Passed during the

NINETY-FIFTH GENERAL ASSEMBLY

Second Regular Session, which convened at the City of Jefferson,
Wednesday, January 6, 2010, and adjourned Sunday, May 30, 2010.

First Extraordinary Session, which convened at the City of Jefferson,
Thursday, June 24, 2010, and adjourned Wednesday, July 14, 2010.

[Table of Contents](#)



Published by the

**MISSOURI JOINT
COMMITTEE ON
LEGISLATIVE RESEARCH**

In compliance with Sections 2.030 and 2.040,
Revised Statutes of Missouri, 2009

JOINT COMMITTEE ON
LEGISLATIVE RESEARCH
2009 - 2010

CHAIR

Tom Dempsey

SENATORS

Jason Crowell
Jack Goodman
Timothy Green
Jolie Justus
Brad Lager
Robert Mayer
Delbert Scott
Wes Shoemyer
Robin Wright-Jones

VICE-CHAIR

Bryan Pratt

REPRESENTATIVES

Rachel Bringer
Tom Flanigan
Allen Icet
Tim Jones
Jason Smith
Michael Spreng
Rachel Storch
Rick Stream
Terry Witte

REVISION STAFF

Russ Hembree..... Director/Acting Revisor
Sandy Lueckenhoff. Chief Bill Drafter

EDITORIAL STAFF

Charlotte M. Neuner. Executive Editor
Donna A. Veit. Associate Editor
Cathy A. Paschal. Index Editor

LEGAL STAFF

Russ Hembree..... Annotations

Anne E. Edgington	Sandy Lueckenhoff	Diane Painter
J. Aaron Kirkpatrick		Kristin Romalia

OTHER STAFF MEMBERS

Mary Jane Armour	Emily Donaldson	Lois A. Mumpower
Kristin L. Boyer	Diana G. Grounds	Anne G. Rottmann
Abby Britton	Hilda Hartling	Dorothy Russell
Diane Crabtree	Bob McGhee	Donna Thoenen
	Tina Miller	

COMPUTER STAFF

George Hagedorn	Amy Jones	Pat Stafford
-----------------	-----------	--------------

DISTRIBUTION STAFF

Gregory A. Swisher. Business Operations Manager

HOW TO USE THE SESSION LAWS

The first pages contain the *Popular Name Table* and the *Table of Sections Affected by 2010 Legislation* from the Second Regular Session of the 95th General Assembly, followed by the *Table of Sections Affected by 2010 Legislation* from the First Extraordinary Session of the 95th General Assembly.

The text of all 2010 House and Senate Bills and the Concurrent Resolutions from the Second Regular Session appears next. The appropriation bills are presented first, with all others following in numerical order.

The text of the 2010 House Bills from the First Extraordinary Session appears next.

A subject index is included at the end of this volume.

TABLE OF CONTENTS

SECOND REGULAR SESSION (2010) NINETY-FIFTH GENERAL ASSEMBLY FIRST EXTRAORDINARY SESSION (2010) NINETY-FIFTH GENERAL ASSEMBLY

	Pages
PREFACE	
Authority for Publishing Session Laws and Resolutions.....	vi
Attestation.....	vii
Effective Date of Laws (Constitutional Provision).	vii
Joint Resolutions and Initiative Petitions (Constitutional Provision).	viii
Popular Name Table	ix
Table of Sections Affected, 2010 Second Regular Session.....	xi
Table of Sections Affected, 2010 First Extraordinary Session.	xxxvii

2010 LEGISLATION SECOND REGULAR SESSION

Appropriation Bills.	1
House Bills.	169
Senate Bills.	779
Vetoed Bills.	1097
Proposed Referendums.	1099
House Concurrent Resolutions.	1101
Senate Concurrent Resolutions.	1105

2010 LEGISLATION FIRST EXTRAORDINARY SESSION

House Bills.	1115
----------------------	------

INDEX

Subject Index.	1129
------------------------	------

Authority for Publishing Session Laws and Resolutions

Section 2.030, Revised Statutes of Missouri, 2009. — Legislative Research to provide for printing and binding of laws. — The joint committee on legislative research shall annually collate, index, print, and bind all laws and resolutions passed or adopted by the general assembly and all measures approved by the people since the last publication of the session laws. Any edition of the session laws published pursuant to this section is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

Section 2.040, Revised Statutes of Missouri, 2009. — Duties of Legislative Research in printing and binding. — The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of the session laws pursuant to section 2.030, giving the date of the approval or adoption thereof. The joint committee on legislative research shall headnote, collate, index the laws, resolutions and constitutional amendments, and compare the proof sheets of the printed copies with the original rolls. The revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

ATTESTATION

STATE OF MISSOURI)
) ss.
City of Jefferson)

I, Russ Hembree, Acting Revisor of Statutes, hereby certify that I have collated carefully the laws and resolutions passed by the Ninety-fifth General Assembly of the State of Missouri, convened in second regular session and first extraordinary session, as they are contained in the following pages, and have compared them with the original rolls and have corrected them thereby. Headnotes are used for the convenience of the reader and are not part of the laws they precede.

IN TESTIMONY WHEREOF, I have hereunto set my hand at my office in the City of Jefferson this nineteenth day of July A.D. two thousand ten.

RUSS HEMBREE
ACTING REVISOR OF STATUTES

EFFECTIVE DATE OF LAWS

Section 29, Article III of the Constitution provides:

“No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess.”

The Ninety-fifth General Assembly, Second Regular Session, convened January 6, 2010, and adjourned Sunday, May 30, 2010. All laws passed by it (other than appropriation acts, those having emergency clauses or different effective dates) became effective ninety days thereafter on August 28, 2010.

The Ninety-fifth General Assembly, First Extraordinary Session, convened Thursday, June 24, 2010, and adjourned Wednesday, July 14, 2010. The laws passed by it did not contain an emergency clause and became effective ninety days thereafter on October 12, 2010.

JOINT RESOLUTIONS AND INITIATIVE PETITIONS

Section 2(b), Article XII of the Constitution provides:

“All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election called by the governor prior thereto, at which he may submit any of the amendments..... If a majority of the votes cast thereon is in favor of any amendment, the same shall take effect at the end of thirty days after the election. More than one amendment at the same election shall be so submitted as to enable the electors to vote on each amendment separately.”

Neither the Ninety-fifth General Assembly, Second Regular Session, nor the Ninety-fifth General Assembly, First Extraordinary Session, passed a Joint Resolution. Resolutions are to be published as provided in Section 116.340, RSMo 2000, which reads:

“116.340. Publication of approved measures. — When a statewide ballot measure is approved by the voters, the secretary of state* shall publish it with the laws enacted by the following session of the general assembly, and the revisor of statutes shall include it in the next edition or supplement of the revised statutes of Missouri. Each of the measures printed above shall include the date of the proclamation or statement of approval under section 116.330.”

*The publication of session laws was delegated to the Joint Committee on Legislative Research in 1997 by Senate Bill 459, section 2.040.

The headnotes used to describe sections printed in this volume may not be identical with the headnotes which appear in the 2010 Supplement to the Revised Statutes of Missouri. Every attempt has been made to develop headnotes which adequately describe the textual material contained in the section.



The Joint Committee on Legislative Research
is pleased to state that the *2010 Session Laws*
is produced with soy-based ink.

POPULAR NAME TABLE

2010 LEGISLATION

Cyber Bullying, HB 1543

Girl Scout Day, SB 649

K-2, HB 1472

Lions, Tigers, Bears, Oh My Act, SB 795

Manufacturing Jobs Act, HB 2 (First Extraordinary Session)

Named Bridges and Highways

Dave Sinclair Memorial Highway, HB 1941

Dr. Martin Luther King Jr. Memorial Mile, HB 1941

Gene Curtis Memorial Highway, HB 1941

Harry S. Truman Memorial Highway, HB 1941

Jack Buck Memorial Highway, HB 1941

John Playter Memorial Highway, HB 1941

Johnny Lee Hays Memorial Highway in Butler County, HB 1941

Mark Twain Highway established, HB 1941

Missouri State Trooper William Brandy Memorial Highway, HB 1941

Mo. Hwy. Patrolman Corporal Dennis E. Engelhard Memorial Highway, HB
1941

Pat Jones pedestrian/bicycle lane designated in Jefferson City, HB 1941

Police Officer Ernest M. Brockman Sr. Memorial Highway, HB 1941

Sergeant Charles R. Long Memorial Bridge, HB 1941

OA Revision Bill, HB 1965

PACE (property assessed clean energy), HB 1692

Referendum, HB 1764

Retirement Bill, HB 1 (First Extraordinary Session)

Revision Bill, HB 1516

Shared Work Program, HB 1544

This page intentionally left blank.

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
1.330	New	HB 1764	30.1011	Vetoed	HB 1903
2.030	Amended	HB 1965	30.1025	Vetoed	HB 1903
3.130	Amended	HB 1965	31.010	Repealed	HB 1965
3.140	Amended	HB 1965	32.069	Amended	HB 1408
8.016	New	HB 1868	33.065	Amended	HB 1965
8.016	New	HB 2285	33.285	Repealed	HB 1965
8.016	Vetoed	HB 2317	33.571	Repealed	HB 1965
8.016	New	SB 844	33.577	Repealed	HB 1965
8.190	Repealed	HB 1965	33.850	New	HB 1965
9.167	New	SB 649	34.047	New	HB 1868
11.010	Amended	HB 1965	34.048	New	SB 844
11.020	Amended	HB 1965	34.065	Repealed	HB 1965
21.801	New	HB 1848	34.074	Amended	HB 1524
21.811	Repealed	HB 1965	34.110	Amended	HB 1965
21.840	Repealed	HB 1516	34.130	Repealed	HB 1965
21.840	Repealed	HB 1965	36.031	Amended	HB 1868
21.910	New	HB 1868	36.050	Amended	HB 1868
21.920	New	HB 1965	36.060	Amended	HB 1868
23.156	New	HB 1868	36.150	Amended	HB 1868
23.156	New	HB 2226	36.280	Amended	HB 1868
28.085	Repealed	HB 1965	36.370	Amended	HB 1868
30.220	Repealed	HB 1965	36.380	Amended	HB 1868

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
36.390	Amended	HB 1868	43.040	Amended	HB 1868
36.400	Amended	HB 1868	43.050	Amended	HB 1868
37.005	Amended	HB 1965	43.390	New	HB 1868
37.320	Amended	HB 1868	48.020	Amended	HB 1806
37.900	New	HB 1868	48.030	Amended	HB 1806
37.900	New	SB 844	52.230	Amended	HB 1316
41.025	New	HB 1524	52.290	Amended	HB 1316
41.030	Amended	HB 1524	52.312	Amended	HB 1316
41.206	New	HB 1524	52.361	Amended	HB 1316
41.206	New	HB 2262	52.370	Amended	HB 1316
41.207	New	HB 1524	54.010	Amended	HB 1316
41.207	New	HB 2262	55.140	Amended	HB 1316
41.216	Amended	HB 1524	55.190	Amended	HB 1316
41.560	Amended	HB 1524	57.080	Amended	HB 1516
41.572	New	HB 1524	57.080	Amended	HB 1965
41.578	New	HB 1524	57.130	Repealed	HB 1516
41.582	New	HB 1524	57.130	Repealed	HB 1965
41.584	New	HB 1524	58.445	Amended	HB 1868
41.586	New	HB 1524	59.003	New	HB 1643
41.588	New	HB 1524	59.318	New	HB 1643
42.121	Amended	HB 1965	60.461	Repealed	HB 1965
42.300	New	HB 1893	60.670	New	HB 1692

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
67.110	Amended	HB 1316	67.2835	New	HB 1692
67.110	Amended	HB 1392	68.025	Amended	SB 578
67.1000	Amended	HB 1442	68.035	Amended	SB 578
67.1000	Amended	SB 644	68.040	Amended	SB 578
67.1003	Amended	SB 644	68.057	New	SB 578
67.1018	New	HB 1442	68.070	Amended	SB 578
67.1360	Amended	HB 1442	68.200	New	SB 578
67.1360	Amended	SB 644	68.205	New	SB 578
67.1361	Amended	HB 1442	68.210	New	SB 578
67.1361	Amended	SB 644	68.215	New	SB 578
67.2000	Amended	HB 1442	68.220	New	SB 578
67.2000	Amended	SB 644	68.225	New	SB 578
67.2677	Amended	HB 1965	68.230	New	SB 578
67.2725	New	HB 1444	68.235	New	SB 578
67.2725	New	SB 851	68.240	New	SB 578
67.2800	New	HB 1692	68.245	New	SB 578
67.2805	New	HB 1692	68.250	New	SB 578
67.2810	New	HB 1692	68.255	New	SB 578
67.2815	New	HB 1692	68.259	New	SB 578
67.2820	New	HB 1692	68.260	New	SB 578
67.2825	New	HB 1692	70.220	Amended	HB 1442
67.2830	New	HB 1692	70.220	Amended	SB 644

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
70.373	Amended	SB 758	95.365	Repealed	HB 1965
71.240	Repealed	HB 1965	96.300	Repealed	HB 1965
71.275	New	HB 1806	96.310	Repealed	HB 1965
71.275	New	SB 942	96.320	Repealed	HB 1965
71.730	Repealed	HB 1965	96.330	Repealed	HB 1965
71.750	Repealed	HB 1965	96.340	Repealed	HB 1965
71.970	Repealed	HB 1516	96.350	Repealed	HB 1965
71.970	Repealed	HB 1965	96.360	Repealed	HB 1965
79.025	New	HB 1806	96.370	Repealed	HB 1965
79.025	New	SB 942	96.380	Repealed	HB 1965
92.715	Amended	HB 1316	99.799	Repealed	HB 1516
94.030	Repealed	HB 1965	99.799	Repealed	HB 1965
94.210	Repealed	HB 1965	99.918	Amended	HB 1965
94.271	New	HB 1442	99.1082	Amended	HB 1965
94.510	Amended	HB 1442	104.810	New	HB 1868
94.577	Amended	HB 1442	105.055	Amended	HB 1868
94.577	Amended	SB 981	105.140	Repealed	HB 1965
94.832	New	HB 1442	105.456	Amended	SB 844
94.840	New	HB 1442	105.463	New	SB 844
94.900	Amended	HB 1442	105.473	Amended	SB 844
94.902	Amended	HB 1442	105.485	Amended	SB 844
94.1011	New	HB 1442	105.955	Amended	SB 844

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
105.957	Amended	SB 844	130.028	Amended	SB 844
105.959	Amended	SB 844	130.031	Amended	SB 844
105.961	Amended	SB 844	130.041	Amended	SB 844
105.963	Amended	SB 844	130.044	Amended	SB 844
105.966	Amended	SB 844	130.046	Amended	SB 844
105.983	Repealed	HB 1965	130.057	Amended	SB 844
109.250	Amended	HB 1868	130.071	Amended	SB 844
110.140	Amended	SB 771	135.205	Amended	HB 1965
110.150	Amended	SB 771	135.207	Amended	HB 1965
110.170	Amended	SB 771	135.230	Amended	HB 1965
115.156	New	HB 1524	135.431	Repealed	HB 1965
115.177	Amended	HB 1965	135.433	Repealed	HB 1965
115.278	New	HB 1524	135.530	Amended	HB 1965
115.279	Amended	HB 1524	135.903	Amended	HB 1965
115.281	Amended	HB 1524	135.953	Amended	HB 1965
115.287	Amended	HB 1524	137.115	Amended	SB 630
115.291	Amended	HB 1524	137.118	Repealed	HB 1965
115.292	Amended	HB 1524	137.180	Amended	HB 1316
115.364	New	SB 844	137.180	Amended	SB 588
130.011	Amended	SB 844	137.243	Amended	HB 1316
130.021	Amended	SB 844	137.286	Repealed	HB 1965
130.026	Amended	SB 844	137.355	Amended	HB 1316

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
137.355	Amended	SB 588	140.260	Amended	HB 1316
137.1040	New	HB 1442	140.290	Amended	HB 1316
138.431	Amended	HB 1316	140.310	Amended	HB 1316
138.431	Amended	HB 1392	140.340	Amended	HB 1316
138.431	Amended	HB 1442	140.405	Amended	HB 1316
139.031	Amended	HB 1316	140.420	Amended	HB 1316
139.040	Amended	HB 1316	141.535	New	HB 1316
139.140	Amended	HB 1316	141.830	Amended	HB 1316
139.150	Amended	HB 1316	142.800	Amended	HB 1965
139.210	Amended	HB 1316	142.815	Amended	HB 1965
139.220	Amended	HB 1316	142.821	Repealed	HB 1965
140.050	Amended	HB 1316	143.171	Amended	HB 1516
140.070	Amended	HB 1316	143.171	Amended	HB 1965
140.080	Amended	HB 1316	143.811	Amended	HB 1408
140.100	Amended	HB 1316	143.1004	Amended	HB 1524
140.110	Amended	HB 1316	144.018	New	SB 928
140.150	Amended	HB 1316	144.019	New	HB 1442
140.160	Amended	HB 1316	144.030	Amended	HB 1442
140.170	Amended	HB 1316	144.030	Amended	SB 928
140.190	Amended	HB 1316	152.032	Repealed	HB 1965
140.230	Amended	HB 1316	160.254	Vetoed	HB 1903
140.250	Amended	HB 1316	160.261	Amended	HB 1543

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
160.545	Amended	HB 1524	167.630	Amended	HB 1543
160.545	Amended	HB 2147	168.221	Amended	HB 1543
160.775	Amended	HB 1543	168.500	Amended	HB 1543
161.209	Amended	HB 1543	168.515	Amended	HB 1543
161.215	New	HB 1893	170.250	Repealed	HB 1965
161.371	New	HB 1543	171.185	New	HB 1692
161.415	Amended	HB 1858	172.794	Amended	SB 987
161.650	Amended	HB 1543	172.850	Amended	SB 1007
163.410	New	HB 1543	172.860	Repealed	HB 1965
165.016	Repealed	HB 1516	173.005	Amended	HB 1965
165.016	Repealed	HB 1965	173.240	New	HB 1858
165.018	Repealed	HB 1516	173.250	Amended	SB 733
165.018	Repealed	HB 1965	173.710	Repealed	HB 1965
165.071	Amended	HB 1316	173.715	Repealed	HB 1965
166.420	Amended	SB 772	173.718	Repealed	HB 1965
166.532	Repealed	SB 772	173.721	Repealed	HB 1965
167.029	Amended	HB 1543	173.1105	Amended	SB 733
167.117	Amended	HB 1543	173.1108	Amended	SB 733
167.182	New	HB 1375	173.1205	New	SB 733
167.621	Amended	HB 1543	174.020	Amended	HB 1516
167.624	Amended	HB 1543	174.020	Amended	HB 1965
167.627	Amended	HB 1543	174.266	Repealed	HB 1965

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
177.310	Vetoed	HB 1831	190.309	Amended	HB 1942
178.637	Amended	HB 1965	190.335	Amended	HB 1942
178.697	Amended	HB 1543	190.339	Amended	HB 1942
178.930	Amended	HB 1965	190.528	Amended	HB 1977
182.647	Amended	HB 1559	191.362	Amended	HB 1965
184.500	New	HB 1316	191.425	New	HB 1898
184.500	New	HB 2297	191.630	Amended	HB 1977
184.503	New	HB 1316	191.648	New	HB 1375
184.503	New	HB 2297	192.010	Repealed	HB 1965
184.506	New	HB 1316	192.120	Repealed	HB 1965
184.506	New	HB 2297	192.255	Repealed	HB 1965
184.509	New	HB 1316	192.375	Repealed	HB 1965
184.509	New	HB 2297	192.632	Repealed	HB 1516
184.512	New	HB 1316	193.145	Amended	HB 1692
184.512	New	HB 2297	193.145	Amended	SB 754
188.027	Amended	SB 793	193.265	Amended	HB 1643
188.039	Amended	SB 793	193.265	Amended	HB 1692
190.060	Amended	HB 1977	193.265	Amended	SB 754
190.092	Amended	HB 1977	194.119	Amended	HB 1524
190.133	Amended	HB 1977	194.350	Amended	HB 2231
190.143	Amended	HB 1977	195.017	Amended	HB 1472
190.196	Amended	HB 1977	195.060	Amended	HB 1965

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
195.080	Amended	SB 754	196.805	Repealed	HB 1965
195.202	Amended	HB 1472	196.810	Repealed	HB 1965
195.400	Amended	HB 1965	196.1020	New	SB 884
195.405	Repealed	HB 1965	196.1023	New	SB 884
195.410	Repealed	HB 1965	196.1026	New	SB 884
195.415	Repealed	HB 1965	196.1029	New	SB 884
195.425	Repealed	HB 1965	196.1032	New	SB 884
196.180	Repealed	HB 1965	196.1035	New	SB 884
196.316	Amended	SB 795	197.305	Amended	HB 1516
196.725	Repealed	HB 1965	197.305	Amended	HB 1965
196.730	Repealed	HB 1965	197.314	Repealed	HB 1965
196.750	Repealed	HB 1965	197.317	Repealed	HB 1965
196.755	Repealed	HB 1965	197.318	Amended	HB 1516
196.760	Repealed	HB 1965	197.318	Amended	HB 1965
196.765	Repealed	HB 1965	197.366	Amended	HB 1516
196.770	Repealed	HB 1965	197.366	Amended	HB 1965
196.775	Repealed	HB 1965	198.016	New	SB 1007
196.780	Repealed	HB 1965	198.058	Amended	HB 1965
196.785	Repealed	HB 1965	198.087	Amended	HB 1965
196.790	Repealed	HB 1965	198.600	Repealed	HB 1965
196.795	Repealed	HB 1965	199.010	Amended	SB 1007
196.800	Repealed	HB 1965	199.200	Amended	SB 1007

**TABLE OF SECTIONS AFFECTED
BY
2010 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
199.210	Amended	SB 1007		207.055	Repealed	HB 1965
199.230	Amended	SB 1007		208.010	Amended	HB 1692
199.240	Amended	SB 1007		208.010	Amended	HB 2290
199.250	Amended	SB 1007		208.010	Amended	SB 754
199.260	Amended	SB 1007		208.010	Amended	SB 842
201.010	Amended	HB 1270		208.010	Amended	SB 1007
201.020	Amended	HB 1270		208.046	New	HB 2290
201.030	Amended	HB 1270		208.046	New	SB 1007
201.040	Amended	HB 1270		208.198	New	SB 754
201.050	Amended	HB 1270		208.198	New	SB 842
201.070	Amended	HB 1270		208.215	Amended	HB 1868
201.080	Amended	HB 1270		208.215	Amended	HB 2226
201.090	Amended	HB 1270		208.215	Amended	SB 583
204.300	Amended	HB 1612		208.215	Amended	SB 842
204.300	Amended	SB 791		208.215	Amended	SB 1007
204.472	Amended	HB 1612		208.344	Repealed	HB 1516
204.472	Amended	SB 791		208.344	Repealed	HB 1965
204.571	Amended	HB 1612		208.453	Amended	HB 1894
204.571	Amended	SB 791		208.453	Amended	SB 842
207.023	Repealed	HB 1965		208.453	Amended	SB 1007
207.040	Repealed	HB 1965		208.895	Amended	SB 842
207.050	Repealed	HB 1965		208.895	Amended	SB 1007

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
208.909	Amended	SB 842	214.277	Amended	HB 1692
208.909	Amended	SB 1007	214.277	Amended	HB 2226
208.918	Amended	SB 842	214.277	Amended	SB 754
208.918	Amended	SB 1007	214.282	New	HB 1692
208.978	Repealed	HB 1516	214.282	New	HB 2226
208.978	Repealed	HB 1965	214.282	New	SB 754
210.002	Repealed	HB 1965	214.283	Amended	HB 1692
210.111	Repealed	HB 1965	214.283	Amended	HB 2226
210.292	Repealed	HB 1965	214.283	Amended	SB 754
211.013	Repealed	HB 1516	214.290	Repealed	HB 1692
211.013	Repealed	HB 1965	214.290	Repealed	HB 2226
211.015	Repealed	HB 1965	214.290	Repealed	SB 754
214.160	Amended	HB 1692	214.300	Amended	HB 1692
214.160	Amended	HB 2226	214.300	Amended	HB 2226
214.160	Amended	SB 753	214.300	Amended	SB 754
214.160	Amended	SB 754	214.310	Amended	HB 1692
214.270	Amended	HB 1692	214.310	Amended	HB 2226
214.270	Amended	HB 2226	214.310	Amended	SB 754
214.270	Amended	SB 754	214.320	Amended	HB 1692
214.276	Amended	HB 1692	214.320	Amended	HB 2226
214.276	Amended	HB 2226	214.320	Amended	SB 754
214.276	Amended	SB 754	214.325	Amended	HB 1692

**TABLE OF SECTIONS AFFECTED
BY
2010 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
214.325	Amended	HB 2226		214.365	Amended	SB 754
214.325	Amended	SB 754		214.367	Amended	HB 1692
214.330	Amended	HB 1692		214.367	Amended	HB 2226
214.330	Amended	HB 2226		214.367	Amended	SB 754
214.330	Amended	SB 754		214.387	Amended	HB 1692
214.335	Amended	HB 1692		214.387	Amended	HB 2226
214.335	Amended	HB 2226		214.387	Amended	SB 754
214.335	Amended	SB 754		214.389	New	HB 1692
214.340	Amended	HB 1692		214.389	New	HB 2226
214.340	Amended	HB 2226		214.389	New	SB 754
214.340	Amended	SB 754		214.392	Amended	HB 1692
214.345	Amended	HB 1692		214.392	Amended	HB 2226
214.345	Amended	HB 2226		214.392	Amended	SB 754
214.345	Amended	SB 754		214.400	Amended	HB 1692
214.360	Amended	HB 1692		214.400	Amended	HB 2226
214.360	Amended	HB 2226		214.400	Amended	SB 754
214.360	Amended	SB 754		214.410	Amended	HB 1692
214.363	Amended	HB 1692		214.410	Amended	HB 2226
214.363	Amended	HB 2226		214.410	Amended	SB 754
214.363	Amended	SB 754		214.500	Amended	HB 1692
214.365	Amended	HB 1692		214.500	Amended	HB 2226
214.365	Amended	HB 2226		214.500	Amended	SB 754

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
214.504	Amended	HB 1692	215.353	Repealed	HB 1965
214.504	Amended	HB 2226	215.355	Repealed	HB 1965
214.504	Amended	SB 754	217.860	Repealed	HB 1516
214.508	Amended	HB 1692	217.860	Repealed	HB 1965
214.508	Amended	HB 2226	221.140	Repealed	HB 1965
214.508	Amended	SB 754	226.033	Amended	SB 844
214.512	Amended	HB 1692	227.303	Amended	HB 1941
214.512	Amended	HB 2226	227.313	Amended	HB 1941
214.512	Amended	SB 754	227.324	New	HB 1941
214.516	Amended	HB 1692	227.365	New	HB 1941
214.516	Amended	HB 2226	227.391	New	HB 1941
214.516	Amended	SB 754	227.405	New	HB 1941
214.550	Amended	HB 1692	227.408	New	HB 1941
214.550	Amended	HB 2226	227.409	Amended	HB 1941
214.550	Amended	SB 754	227.412	New	HB 1941
215.050	Repealed	HB 1965	227.413	New	HB 1941
215.263	Amended	HB 1965	227.414	New	HB 1941
215.340	Repealed	HB 1965	227.415	New	HB 1941
215.345	Repealed	HB 1965	227.416	New	HB 1941
215.347	Repealed	HB 1965	237.200	Repealed	HB 1965
215.349	Repealed	HB 1965	246.310	New	HB 1316
215.351	Repealed	HB 1965	246.310	New	HB 1692

**TABLE OF SECTIONS AFFECTED
BY
2010 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
246.310	New	SB 795	278.020	Repealed	HB 1965
250.233	Amended	HB 1612	278.030	Repealed	HB 1965
250.233	Amended	SB 791	278.040	Repealed	HB 1965
253.022	Amended	HB 1965	278.050	Repealed	HB 1965
253.375	Repealed	HB 1965	281.260	Amended	SB 795
253.406	Repealed	HB 1965	288.034	Amended	HB 1692
260.370	Amended	HB 1965	288.062	Amended	HB 1544
260.481	Repealed	HB 1965	288.090	Amended	HB 1965
261.200	New	SB 795	288.500	Amended	HB 1544
262.001	New	HB 2182	294.045	Amended	HB 1892
263.210	Repealed	HB 1965	301.142	Amended	SB 754
265.525	Amended	HB 1840	301.273	Repealed	HB 1965
266.355	Amended	SB 795	301.560	Amended	SB 583
267.565	Amended	HB 1662	301.716	Amended	HB 1868
267.600	Amended	HB 1662	301.3112	Repealed	HB 1965
270.260	Amended	SB 795	301.3158	New	HB 1524
270.270	New	SB 795	302.183	Amended	HB 2161
270.400	Amended	SB 795	302.309	Amended	HB 1695
273.327	Amended	SB 795	302.750	Amended	HB 1695
273.329	Amended	SB 795	303.025	Amended	SB 583
274.180	Amended	SB 795	303.026	Amended	HB 1965
278.010	Repealed	HB 1965	303.040	Amended	SB 583

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
304.015	Amended	HB 1540	307.367	Repealed	HB 1516
306.010	Amended	HB 1868	307.367	Repealed	HB 1965
306.161	Repealed	HB 1868	307.390	Amended	HB 1540
306.163	Repealed	HB 1868	307.400	Amended	HB 1540
306.165	Amended	HB 1868	311.470	Repealed	HB 1965
306.167	Amended	HB 1868	311.550	Amended	SB 795
306.168	Amended	HB 1868	313.005	Amended	SB 940
306.185	Amended	HB 1868	313.008	Amended	HB 1965
306.227	Repealed	HB 1868	313.010	Amended	SB 940
306.228	Repealed	HB 1868	313.015	Amended	SB 940
306.229	Repealed	HB 1868	313.040	Amended	SB 940
306.230	Repealed	HB 1868	313.045	Amended	SB 940
306.232	Repealed	HB 1868	313.050	Amended	SB 940
306.532	New	HB 1692	313.057	Amended	SB 940
307.010	Amended	HB 1540	313.805	Amended	SB 984
307.090	Amended	HB 1540	313.830	Amended	SB 984
307.120	Amended	HB 1540	313.835	Amended	HB 1893
307.155	Amended	HB 1540	313.835	Amended	HB 1965
307.172	Amended	HB 1540	318.010	Repealed	HB 1965
307.173	Amended	HB 1540	318.020	Repealed	HB 1965
307.176	Repealed	HB 1965	318.030	Repealed	HB 1965
307.195	Amended	HB 1540	318.040	Repealed	HB 1965

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
318.050	Repealed	HB 1965	324.1128	Amended	HB 2226
318.060	Repealed	HB 1965	324.1132	Amended	HB 2226
318.070	Repealed	HB 1965	324.1134	Amended	HB 2226
318.080	Repealed	HB 1965	324.1136	Amended	HB 2226
318.090	Repealed	HB 1965	324.1140	Amended	HB 2226
318.100	Repealed	HB 1965	324.1147	New	HB 2226
319.306	Amended	SB 795	327.031	Amended	HB 1692
319.321	Amended	SB 795	327.031	Amended	HB 2226
320.097	Amended	SB 739	327.041	Amended	HB 1692
321.243	Amended	HB 2070	327.041	Amended	HB 2226
321.247	Repealed	HB 1340	327.272	Amended	HB 1692
321.250	Amended	HB 1392	327.351	Amended	HB 1692
324.1100	Amended	HB 2226	327.351	Amended	HB 2226
324.1102	Amended	HB 2226	327.411	Amended	HB 1692
324.1103	New	HB 2226	327.411	Amended	HB 2226
324.1106	Amended	HB 2226	329.028	Amended	HB 1516
324.1110	Amended	HB 2226	329.028	Amended	HB 1965
324.1112	Amended	HB 2226	332.011	Amended	HB 2226
324.1114	Amended	HB 2226	332.098	New	HB 2226
324.1118	Amended	HB 2226	334.100	Amended	HB 2226
324.1124	Amended	HB 2226	334.245	New	SB 793
324.1126	Amended	HB 2226	334.506	Amended	HB 2226

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
334.613	Amended	HB 2226	337.643	Amended	HB 2226
334.735	Amended	HB 2226	337.700	Amended	HB 2226
334.735	Amended	SB 754	337.703	Amended	HB 2226
334.950	New	HB 2270	337.705	New	HB 2226
335.075	New	HB 2226	337.706	Amended	HB 2226
335.081	Amended	HB 2226	337.715	Amended	HB 2226
337.300	New	HB 1311	337.718	Amended	HB 2226
337.305	New	HB 1311	337.727	Amended	HB 2226
337.310	New	HB 1311	337.739	Amended	HB 2226
337.315	New	HB 1311	338.100	Amended	SB 754
337.320	New	HB 1311	338.333	Amended	HB 2226
337.325	New	HB 1311	338.335	Amended	HB 2226
337.330	New	HB 1311	338.337	Amended	HB 2226
337.335	New	HB 1311	339.010	Amended	HB 1692
337.340	New	HB 1311	339.010	Amended	SB 754
337.345	New	HB 1311	339.020	Amended	HB 1692
337.528	Amended	HB 2226	339.020	Amended	SB 754
337.528	Amended	SB 754	339.030	Amended	HB 1692
337.600	Amended	HB 2226	339.030	Amended	SB 754
337.603	Amended	HB 2226	339.040	Amended	HB 1692
337.615	Amended	HB 2226	339.040	Amended	SB 754
337.618	Amended	HB 2226	339.080	Amended	HB 1692

**TABLE OF SECTIONS AFFECTED
BY
2010 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
339.080	Amended	SB 754		339.1145	New	HB 1692
339.110	Amended	HB 1692		339.1150	New	HB 1692
339.110	Amended	SB 754		339.1155	New	HB 1692
339.160	Amended	HB 1692		339.1160	New	HB 1692
339.160	Amended	SB 754		339.1170	New	HB 1692
339.170	Amended	HB 1692		339.1175	New	HB 1692
339.170	Amended	SB 754		339.1180	New	HB 1692
339.503	Amended	HB 1692		339.1185	New	HB 1692
339.503	Vetoed	SB 777		339.1190	New	HB 1692
339.710	Amended	HB 1692		339.1200	New	HB 1692
339.710	Amended	SB 754		339.1205	New	HB 1692
339.845	New	HB 1692		339.1210	New	HB 1692
339.845	New	SB 754		339.1215	New	HB 1692
339.1100	New	HB 1692		339.1220	New	HB 1692
339.1105	New	HB 1692		339.1230	New	HB 1692
339.1110	New	HB 1692		339.1235	New	HB 1692
339.1115	New	HB 1692		339.1240	New	HB 1692
339.1120	New	HB 1692		340.290	Repealed	HB 1965
339.1125	New	HB 1692		342.010	Repealed	HB 1965
339.1130	New	HB 1692		342.020	Repealed	HB 1965
339.1135	New	HB 1692		344.010	Amended	HB 2226
339.1140	New	HB 1692		344.010	Amended	SB 754

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
344.020	Amended	HB 2226	375.1175	Amended	SB 834
344.020	Amended	SB 754	375.1191	New	SB 583
349.010	Amended	HB 1595	375.1191	Vetoed	SB 777
351.340	Vetoed	HB 1741	375.1255	Amended	SB 583
354.442	Amended	SB 583	375.1255	Vetoed	SB 777
362.105	Amended	SB 630	376.383	Amended	HB 1498
362.111	Vetoed	SB 777	376.671	Amended	HB 1965
365.020	Amended	SB 630	376.717	Amended	SB 583
365.200	Amended	SB 630	376.718	Amended	SB 583
369.229	Amended	SB 630	376.724	Amended	SB 583
370.300	Amended	SB 630	376.725	Amended	SB 583
374.208	Repealed	HB 1516	376.732	Amended	SB 583
374.208	Repealed	HB 1965	376.733	Amended	SB 583
375.024	New	SB 583	376.734	Amended	SB 583
375.539	New	SB 583	376.735	Amended	SB 583
375.539	Vetoed	SB 777	376.737	Amended	SB 583
375.1152	Amended	SB 583	376.738	Amended	SB 583
375.1152	Vetoed	SB 777	376.740	Amended	SB 583
375.1155	Amended	SB 583	376.743	Amended	SB 583
375.1155	Vetoed	SB 777	376.758	Amended	SB 583
375.1175	Amended	HB 1764	376.805	Amended	SB 793
375.1175	Amended	SB 583	376.816	Amended	SB 583

**TABLE OF SECTIONS AFFECTED
BY
2010 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
376.882	New	SB 583		407.810	Amended	HB 2198
376.990	Repealed	HB 1516		407.811	New	HB 2198
376.990	Repealed	HB 1965		407.812	New	HB 2198
376.1109	Amended	SB 583		407.815	Amended	HB 2198
376.1224	New	HB 1311		407.817	Amended	HB 2198
376.1450	Amended	SB 583		407.818	New	HB 2198
383.130	Amended	HB 2226		407.819	New	HB 2198
383.133	Amended	HB 2226		407.822	Amended	HB 2198
386.220	Repealed	HB 1965		407.825	Amended	HB 2198
389.440	Repealed	HB 1965		407.828	Amended	HB 2198
389.450	Repealed	HB 1965		407.831	New	HB 2198
389.880	Repealed	HB 1965		407.833	New	HB 2198
389.890	Repealed	HB 1965		407.835	Amended	HB 2198
389.895	Repealed	HB 1965		408.015	Amended	SB 630
392.605	New	HB 1750		408.052	Vetoed	SB 777
393.320	New	SB 791		408.140	Vetoed	SB 777
393.1025	Amended	SB 795		408.233	Vetoed	SB 777
393.1030	Amended	SB 795		408.250	Amended	SB 630
400.9.118	Repealed	HB 1965		408.300	Vetoed	SB 777
400.9.303	Amended	SB 630		408.380	Vetoed	SB 777
400.9.311	Amended	SB 630		429.016	New	HB 1692
402.225	Repealed	HB 1965		429.016	New	HB 2058

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
429.110	Amended	HB 1643	454.105	Repealed	HB 1965
441.005	Amended	SB 630	454.110	Repealed	HB 1965
441.645	New	HB 1692	454.120	Repealed	HB 1965
442.010	Amended	SB 630	454.130	Repealed	HB 1965
442.015	New	SB 630	454.140	Repealed	HB 1965
443.701	Amended	HB 2201	454.150	Repealed	HB 1965
443.703	Amended	HB 2201	454.160	Repealed	HB 1965
443.805	Amended	HB 2201	454.170	Repealed	HB 1965
447.503	Amended	HB 1524	454.180	Repealed	HB 1965
447.559	Amended	HB 1524	454.190	Repealed	HB 1965
452.340	Amended	HB 1692	454.200	Repealed	HB 1965
452.430	Amended	HB 1692	454.210	Repealed	HB 1965
454.010	Repealed	HB 1965	454.220	Repealed	HB 1965
454.020	Repealed	HB 1965	454.230	Repealed	HB 1965
454.030	Repealed	HB 1965	454.240	Repealed	HB 1965
454.040	Repealed	HB 1965	454.250	Repealed	HB 1965
454.050	Repealed	HB 1965	454.260	Repealed	HB 1965
454.060	Repealed	HB 1965	454.270	Repealed	HB 1965
454.070	Repealed	HB 1965	454.275	Repealed	HB 1965
454.080	Repealed	HB 1965	454.280	Repealed	HB 1965
454.090	Repealed	HB 1965	454.290	Repealed	HB 1965
454.100	Repealed	HB 1965	454.300	Repealed	HB 1965

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
454.310	Repealed	HB 1965	478.003	Amended	HB 1695
454.320	Repealed	HB 1965	478.007	New	HB 1695
454.330	Repealed	HB 1965	478.009	Amended	HB 1695
454.340	Repealed	HB 1965	479.170	Amended	HB 1695
454.350	Repealed	HB 1965	488.429	Amended	HB 1692
454.355	Repealed	HB 1965	488.5345	Amended	HB 1965
454.360	Repealed	HB 1965	490.610	Repealed	HB 1965
454.475	Amended	HB 1692	493.055	New	HB 1692
454.515	Amended	HB 2056	513.010	Amended	SB 630
454.517	Amended	HB 1692	525.233	Amended	HB 1654
454.557	Amended	HB 1692	537.296	Amended	HB 1692
454.800	Repealed	HB 1965	537.675	Amended	HB 1965
454.802	Repealed	HB 1965	537.684	Amended	HB 1965
454.804	Repealed	HB 1965	542.261	Amended	HB 1868
454.806	Repealed	HB 1965	542.276	Amended	HB 1695
454.1003	Amended	HB 1692	544.157	Amended	HB 1868
460.100	Repealed	HB 1965	556.021	Amended	HB 1540
460.250	Repealed	HB 1965	556.022	New	HB 1540
473.739	Amended	SB 808	563.011	Amended	HB 1692
473.742	Amended	SB 808	563.031	Amended	HB 1692
475.190	Amended	HB 2201	563.031	Amended	HB 2081
478.001	Amended	HB 1695	565.086	New	SB 774

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
571.030	Amended	HB 1692	578.604	New	SB 795
571.070	Amended	HB 1692	578.606	New	SB 795
571.104	Amended	HB 1692	578.608	New	SB 795
571.107	Amended	HB 1692	578.610	New	SB 795
573.525	New	SB 586	578.612	New	SB 795
573.528	New	SB 586	578.614	New	SB 795
573.531	New	SB 586	578.616	New	SB 795
573.534	New	SB 586	578.618	New	SB 795
573.537	New	SB 586	578.620	New	SB 795
573.540	New	SB 586	578.622	New	SB 795
575.021	New	SB 844	578.624	New	SB 795
577.005	New	HB 1695	620.010	Amended	HB 1965
577.006	New	HB 1695	620.155	Repealed	HB 1965
577.010	Amended	HB 1695	620.156	Repealed	HB 1965
577.012	Amended	HB 1695	620.157	Repealed	HB 1965
577.023	Amended	HB 1695	620.158	Repealed	HB 1965
577.039	Amended	HB 1695	620.160	Repealed	HB 1965
577.041	Amended	HB 1695	620.161	Repealed	HB 1965
577.054	Amended	HB 1695	620.163	Repealed	HB 1965
577.090	Amended	HB 1868	620.164	Repealed	HB 1965
578.600	New	SB 795	620.165	Repealed	HB 1965
578.602	New	SB 795	620.170	Repealed	HB 1965

TABLE OF SECTIONS AFFECTED BY 2010 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
620.173	Repealed	HB 1965	644.550	Repealed	HB 1965
620.174	Repealed	HB 1965	644.551	Amended	HB 1965
620.176	Repealed	HB 1965	650.005	Amended	HB 1868
620.515	Amended	HB 1516	650.399	Amended	HB 2070
620.1023	Amended	HB 1965	660.018	Repealed	HB 1965
621.015	Amended	HB 1868	660.023	New	SB 842
621.075	New	HB 1868	660.023	New	SB 1007
622.010	Repealed	HB 1965	660.300	Amended	SB 842
622.020	Repealed	HB 1965	660.300	Amended	SB 1007
622.040	Repealed	HB 1965	660.425	Amended	SB 842
622.045	Repealed	HB 1965	660.425	Amended	SB 1007
622.050	Repealed	HB 1965	660.430	Amended	SB 842
622.055	Repealed	HB 1965	660.435	Amended	SB 842
622.057	Repealed	HB 1965	660.445	Amended	SB 842
630.060	Amended	HB 1868	660.455	Amended	SB 842
630.060	Amended	HB 1894	660.460	Amended	SB 842
630.220	Amended	HB 1894	660.465	Amended	SB 842
630.220	Amended	SB 774	660.465	Amended	SB 1007
630.575	New	SB 754	700.010	Amended	SB 630
630.580	New	SB 754	700.100	Amended	SB 630
640.240	Repealed	HB 1858	700.111	Amended	SB 630
644.054	Amended	HB 1965	700.320	Amended	SB 630

**TABLE OF SECTIONS AFFECTED
BY
2010 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
700.350	Amended	SB 630	1	Vetoed	HB 2317
700.360	Amended	SB 630	1	New	SB 583
700.370	Amended	SB 630	1	New	SB 795
700.375	Amended	SB 630	2	New	HB 1524
700.385	Amended	SB 630	2	New	HB 2285
700.525	Amended	SB 630	2	Vetoed	HB 2317
700.526	New	SB 630	3	New	HB 2285
700.527	Amended	SB 630	3	Vetoed	HB 2317
700.528	New	SB 630	4	New	HB 2285
700.529	Amended	SB 630	4	Vetoed	HB 2317
700.530	Repealed	SB 630	5	New	HB 2285
700.531	Repealed	SB 630	5	Vetoed	HB 2317
700.533	Repealed	SB 630	6	New	HB 2285
700.535	Repealed	SB 630	6	Vetoed	HB 2317
700.537	Repealed	SB 630	7	New	HB 2285
700.539	Repealed	SB 630	7	Vetoed	HB 2317
700.630	Amended	SB 630	8	New	HB 2285
1	New	HB 1442	8	Vetoed	HB 2317
1	New	HB 1524	9	New	HB 2285
1	New	HB 1868	9	Vetoed	HB 2317
1	New	HB 2226	10	New	HB 2285
1	New	HB 2285	10	Vetoed	HB 2317

TABLE OF SECTIONS AFFECTED
BY
2010 LEGISLATION

SECTION	ACTION	BILL		SECTION	ACTION	BILL
11	New	HB 2285		11	Vetoed	HB 2317

TABLE OF SECTIONS AFFECTED
BY
2010 FIRST EXTRAORDINARY SESSION

SECTION	ACTION	BILL
---------	--------	------

104.1091	New	HB 1
476.521	New	HB 1
476.529	New	HB 1
620.1910	New	HB 2

This page intentionally left blank.

HB 2001 [SCS HCS HB 2001]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: BOARD OF FUND COMMISSIONERS.

AN ACT to appropriate money to the Board of Fund Commissioners for the cost of issuing and processing State Water Pollution Control Bonds, Stormwater Control Bonds, Third State Building Bonds, and Fourth State Building Bonds, as provided by law, to include payments from the Water Pollution Control Bond and Interest Fund, Stormwater Control Bond and Interest Fund, Third State Building Bond Interest and Sinking Fund, Fourth State Building Bond and Interest Fund, Water Pollution Control Fund, and Stormwater Control Fund, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011 as follows:

SECTION 1.010.— To the Board of Fund Commissioners

For annual fees, arbitrage rebate, refunding, defeasance, and related expenses

From General Revenue Fund	\$20,002E
From Bond Proceeds Funds	2E
Total	\$20,004

SECTION 1.015.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Fourth State Building Bond and Interest Fund for currently outstanding general obligations

From General Revenue Fund	\$16,834,607
---------------------------------	--------------

SECTION 1.020.— To the Board of Fund Commissioners

For payment of interest and sinking fund requirements on fourth state building bonds currently outstanding as provided by law

From Fourth State Building Bond and Interest Fund	\$18,355,982
---------------------------------------------------------	--------------

SECTION 1.025.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Water Pollution Control Bond and Interest Fund for currently outstanding general obligations

From General Revenue Fund	\$7,760,667E
---------------------------------	--------------

There is transferred out of the State Treasury, chargeable to the Water and Wastewater Loan Revolving Fund pursuant to Title 33, Chapter 26, Subchapter VI, Section 1383, U.S. Code, to the Water Pollution Control Bond and Interest Fund for currently outstanding general obligations

From Water and Wastewater Loan Revolving Fund	13,463,213E
Total	\$21,223,880

SECTION 1.030.— To the Board of Fund Commissioners
 For payment of interest and sinking fund requirements on water pollution
 control bonds currently outstanding as provided by law
 From Water Pollution Control Bond and Interest Fund \$36,947,539

SECTION 1.035.— There is transferred out of the State Treasury, chargeable
 to the General Revenue Fund, to the Stormwater Control Bond and
 Interest Fund for currently outstanding general obligations
 From General Revenue Fund \$4,715,549

SECTION 1.040.— To the Board of Fund Commissioners
 For payment of interest and sinking fund requirements on stormwater
 control bonds currently outstanding as provided by law
 From Stormwater Control Bond and Interest Fund \$3,315,833

SECTION 1.045.— There is transferred out of the State Treasury, chargeable
 to the General Revenue Fund, to the Third State Building Bond
 Interest and Sinking Fund for currently outstanding general obligations
 From General Revenue Fund \$5,560,632

SECTION 1.050.— To the Board of Fund Commissioners
 For payment of interest and sinking fund requirements on third state
 building bonds currently outstanding as provided by law
 From Third State Building Bond Interest and Sinking Fund \$33,412,938

BILL TOTALS
 General Revenue Fund \$34,891,457
 Other Funds 13,463,215
 Total \$48,354,672

Approved June 17, 2010

HB 2002 [CCS SS SCS HCS HB 2002]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: STATE BOARD OF EDUCATION AND DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and the Department of Elementary and Secondary Education, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department,

division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011 as follows:

SECTION 2.005.— To the Department of Elementary and Secondary Education
For the Division of General Administration

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment, and provided that not more than twenty-five percent (25%) flexibility is allowed between this section and section 2.045

From General Revenue Fund	\$1,785,947
From Federal Funds	<u>1,692,639</u>
Total (Not to exceed 60.50 F.T.E.)	\$3,478,586

SECTION 2.010.— To the Department of Elementary and Secondary Education
For the Division of General Administration

For the purpose of receiving and expending federal funds through the

American Reinvestment and Recovery Act of 2009 Grant Program

From Federal and Federal Budget Stabilization Funds	\$2,000,000E
---------------------------------------------------------------	--------------

SECTION 2.015.— To the Department of Elementary and Secondary Education

For distributions to the free public schools under the School Foundation Program

as provided in Chapter 163, RSMo, as follows: At least \$3,004,388,410 for the foundation formula; and no more than \$152,797,713 for Transportation; \$135,210,376 for Early Childhood Special Education; \$37,467,000 for Career Ladder; \$50,069,028 for Vocational Education; and \$13,000,000 for Early Childhood Development

From Outstanding Schools Trust Fund	\$447,647,395
From State School Moneys Fund	2,197,379,672
From Lottery Proceeds Fund	117,879,552
From Classroom Trust Fund	383,468,473
From Federal Budget Stabilization Fund	246,557,435E

For the Small Schools Program

From State School Moneys Fund	15,000,000
-----------------------------------------	------------

For the Virtual Schools Program

From General Revenue Fund	325,000
From Lottery Proceeds Fund	390,000

For State Board of Education operated school programs

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	41,375,849
From Federal Funds	4,186,676

Expense and Equipment

From Bingo Proceeds for Education Fund	<u>1,701,355</u>
Total (Not to exceed 730.40 F.T.E.)	\$3,455,911,407

SECTION 2.020.— To the Department of Elementary and Secondary Education
For Statewide Areas of Critical Need for Learning and Development
pursuant to Section 160.530, RSMo.

For System of Support Infrastructure

To maintain the state's system of support infrastructure including; \$2,661,205 total to support the regional Professional Development Centers, which will be divided evenly at \$241,928 per center, for the following centers; University of Central Missouri Center, University of Missouri - Heart of Missouri Center, University of Missouri - Kansas City Center, Truman State University Center, Northwest Missouri State University Center, University of Missouri Science and Technology Center, Southeast Missouri State University Center, Missouri State University Center, University of Missouri - St. Louis Center, Missouri Western State University Center and Missouri Southern State University Center. Also, \$2,464,623 total to support the Missouri Assessment Program, which will be divided evenly at \$224,057 per center, for the following centers; University of Central Missouri Center, University of Missouri - Heart of Missouri Center, University of Missouri - Kansas City Center, Truman State University Center, Northwest Missouri State University Center, University of Missouri Science and Technology Center, Southeast Missouri State University Center, Missouri State University Center, University of Missouri - St. Louis Center, Missouri Western State University Center and Missouri Southern State University Center. Also \$998,846 for School Improvement Initiatives, \$325,000 for the Educational Indicators for the MSIP

From State Schools Moneys Fund	\$6,449,674
For School Board Member Training	
From State School Moneys Fund	136,326
Total	\$6,586,000

SECTION 2.022.— To the Department of Elementary and Secondary Education
For Early Grade Literacy Programs offered at Southeast Missouri State University
From Federal Funds

	\$1E
--	------

SECTION 2.025.— To the Department of Elementary and Secondary Education
For the School Food Services Program to reimburse schools for school food programs

From General Revenue Fund	\$3,412,151
From Federal Funds	255,385,652E
Total	\$258,797,803

SECTION 2.030.— To the Department of Elementary and Secondary Education
For distributions to the public elementary and secondary schools in this state,
pursuant to Chapters 144, 163, and 164, RSMo, pertaining to the School District Trust Fund

From School District Trust Fund	\$760,600,000E
---------------------------------------	----------------

SECTION 2.035.— To the Department of Elementary and Secondary Education
For costs associated with school district bonds

From School District Bonds Fund	\$392,000
---------------------------------------	-----------

SECTION 2.040.— To the Department of Elementary and Secondary Education
For the purpose of receiving and expending grants, donations, contracts, and
payments from private, federal, and other governmental agencies which
may become available between sessions of the General Assembly provided
that the General Assembly shall be notified of the source of any new funds
and the purpose for which they shall be expended, in writing, prior to the use
of said funds

From Federal and Other Funds \$15,000,000E

SECTION 2.045.— To the Department of Elementary and Secondary Education
For the Divisions of School Improvement, Career Education, Special Education,
and Teacher Quality and Urban Education
Personal Service and/or Expense and Equipment, provided that not more
than twenty-five percent (25%) flexibility is allowed between personal service
and expense and equipment, and provided that not more than twenty-five
percent (25%) flexibility is allowed between this section and section 2.005,
and provided that not more than seventy-five percent (40%) flexibility is
allowed between the four (4) divisions within this section

From General Revenue Fund \$3,801,030
From Federal Funds 13,225,645
From Excellence in Education Fund 2,646,073
Total (Not to exceed 243.66 F.T.E.) \$19,672,748

SECTION 2.050.— To the Department of Elementary and Secondary Education
For the Technology Grants Program and for planning and implementing
computer network infrastructure for public elementary and secondary
schools, including computer access to the Department of Elementary
and Secondary Education and to improve the use of classroom technology

From Federal Funds \$5,000,000E

SECTION 2.055.— To the Department of Elementary and Secondary Education
For improving basic programs operated by local education agencies under
Title I of the No Child Left Behind Act

From Federal Funds \$200,000,000E

SECTION 2.060.— To the Department of Elementary and Secondary Education
For the Reading First Grant Program under Title I of the No Child Left Behind
Act

From Federal Funds \$10,000,000E

SECTION 2.065.— To the Department of Elementary and Secondary Education
For innovative educational program strategies under Title V of the No Child
Left Behind Act

From Federal Funds \$2,100,000E

SECTION 2.070.— To the Department of Elementary and Secondary Education
For programs for the gifted from interest earnings accruing in the Stephen Morgan
Ferman Memorial for Education of the Gifted

From State School Moneys Fund \$10,000E

SECTION 2.075.— To the Department of Elementary and Secondary Education
For reimbursements to school districts for the Early Childhood Program,

Hard-to-Reach Incentives, and Parent Education in conjunction
with the Early Childhood Education and Screening Program

From General Revenue Fund	\$73,200
From Federal Funds	824,000
From State School Moneys Fund	125,000

For grants to higher education institutions or area vocational technical
schools for the Child Development Associate Certificate Program
in collaboration with the Coordinating Board for Higher Education

From Federal Funds	400,000
--------------------------	---------

For grants under the Early Childhood Development, Education and Care Program,
including up to \$25,000 in expense and equipment and for program
administration

From Early Childhood Development, Education and Care Fund	14,757,600
Total	\$16,179,800

SECTION 2.080.— To the Department of Elementary and Secondary Education
For the Head Start Collaboration Program

From Federal Funds	\$300,000E
--------------------------	------------

SECTION 2.085.— To the Department of Elementary and Secondary Education
For the Performance Based Assessment Program

From General Revenue Fund	\$200,867
From Federal Funds	10,184,722
From Outstanding Schools Trust Fund	128,125
From Lottery Proceeds Fund	4,331,325
Total	\$14,845,039

SECTION 2.090.— To the Department of Elementary and Secondary Education
For courses, exams, and other expenses that lead to high school students
receiving college credit and Advanced Placement examination fees
for low-income families and for science and mathematics exams

From Federal Funds	\$105,000
--------------------------	-----------

SECTION 2.095.— To the Department of Elementary and Secondary Education
For the Instructional Improvement Grants Program pursuant to Title II
Improving Teacher Quality

From Federal Funds	\$59,348,890E
--------------------------	---------------

SECTION 2.100.— To the Department of Elementary and Secondary Education
For the Safe and Drug Free Schools Grants Program pursuant to Title IV
of the No Child Left Behind Act

From Federal Funds	\$7,600,000E
--------------------------	--------------

SECTION 2.115.— To the Department of Elementary and Secondary Education
For the Public Charter Schools Program

From Federal and Other Funds	\$2,432,000
------------------------------------	-------------

SECTION 2.120.— To the Department of Elementary and Secondary Education
For grants to rural and low-income schools

From Federal Funds	\$3,600,000E
--------------------------	--------------

SECTION 2.125.— To the Department of Elementary and Secondary Education
For language acquisition pursuant to Title III of the No Child Left Behind Act
From Federal Funds \$5,200,000E

SECTION 2.130.— To the Department of Elementary and Secondary Education
For the Refugee Children School Impact Grants Program
From Federal Funds \$800,000

SECTION 2.132.— To the Department of Elementary and Secondary Education
For character education initiatives
From Lottery Proceeds Fund \$100,000

SECTION 2.135.— To the Department of Elementary and Secondary Education
For the Schools with Distinction Program
From Federal Funds \$13,000E

SECTION 2.140.— To the Department of Elementary and Secondary Education
For the Wallace Leadership Grants Program
From Federal Funds \$300,000

SECTION 2.145.— To the Department of Elementary and Secondary Education
For the Missouri History Teachers Program
From Federal Funds \$1,200

SECTION 2.150.— To the Department of Elementary and Secondary Education
For the Division of Vocational Rehabilitation
 Personal Service \$27,121,665
 Expense and Equipment 2,980,284
From Federal Funds (Not to exceed 666.70 F.T.E.) \$30,101,949

SECTION 2.155.— To the Department of Elementary and Secondary Education
For the Vocational Rehabilitation Program
From General Revenue Fund \$12,849,683
From Federal Funds 40,713,797
From Payments by the Department of Mental Health 1,000,000
From Lottery Proceeds Fund 1,400,000
Total \$55,963,480

SECTION 2.160.— To the Department of Elementary and Secondary Education
For the Disability Determination Program
From Federal Funds \$18,000,000

SECTION 2.165.— To the Department of Elementary and Secondary Education
For Independent Living Centers
From General Revenue Fund \$2,506,486
From Federal Funds 1,292,546
From Independent Living Center Fund 390,556
Total \$4,189,588

SECTION 2.170.— To the Department of Elementary and Secondary Education
For the Supported Employment Evidence Based Dartmouth Grant
From Federal Funds \$80,000

SECTION 2.175.— To the Department of Elementary and Secondary Education
For distributions to providers of vocational education programs
From Federal Funds \$26,000,000

SECTION 2.180.— To the Department of Elementary and Secondary Education
For job training programs pursuant to the Workforce Investment Act
From Federal Funds \$8,000,000E

SECTION 2.185.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Department
of Elementary and Secondary Education Federal Stimulus Fund, to the
Department of Elementary and Secondary Education Federal Fund
From Federal Stimulus Fund \$1E

SECTION 2.190.— To the Department of Elementary and Secondary Education
For distributions to educational institutions for the Adult Basic Education Program
From General Revenue Fund \$4,530,054
From Federal Funds 10,000,000
From Outstanding Schools Trust Fund 824,480
Total \$15,354,534

SECTION 2.195.— To the Department of Elementary and Secondary Education
For the School Age Child Care Program
From Federal Funds \$18,908,383
From After-School Retreat Reading and Assessment Grant Program Fund. 10,000E
Total \$18,918,383

SECTION 2.200.— To the Department of Elementary and Secondary Education
For the Troops to Teachers Program
From Federal Funds \$153,610E

SECTION 2.205.— To the Department of Elementary and Secondary Education
For the Special Education Program
From Federal Funds \$235,315,211E

SECTION 2.210.— To the Department of Elementary and Secondary Education
For special education excess costs
From General Revenue Fund \$9,732,356
From Lottery Proceeds Fund 19,590,000
Total \$29,322,356

SECTION 2.215.— To the Department of Elementary and Secondary Education
For the First Steps Program
From General Revenue Fund \$16,740,703
From Federal Funds 7,761,583E
From Early Childhood Development, Education and Care Fund 578,644
From Part C Early Intervention Fund 5,295,254E
Total \$30,376,184

SECTION 2.220.— To the Department of Elementary and Secondary Education
For payments to school districts for children in residential placements
through the Department of Mental Health or the Department of

Social Services pursuant to Section 167.126, RSMo	
From General Revenue Fund	\$2,330,731
From Lottery Proceeds Fund	<u>7,768,606</u>
Total	\$10,099,337

SECTION 2.225. — To the Department of Elementary and Secondary Education For the Sheltered Workshops Program	
From General Revenue Fund	\$24,785,205

SECTION 2.230. — To the Department of Elementary and Secondary Education For payments to readers for blind or visually disabled students in elementary and secondary schools	
From State School Moneys Fund	\$25,000

SECTION 2.235. — To the Department of Elementary and Secondary Education For a task force on blind student academic and vocational performance	
From General Revenue Fund	\$236,906

SECTION 2.240. — To the Department of Elementary and Secondary Education For the Missouri School for the Deaf	
From School for the Deaf Trust Fund	\$25,000E

SECTION 2.245. — To the Department of Elementary and Secondary Education For the Missouri School for the Blind	
From School for the Blind Trust Fund	\$1,500,000E

SECTION 2.250. — To the Department of Elementary and Secondary Education For the Missouri Special Olympics Program	
From General Revenue Fund	\$100,000

SECTION 2.255. — To the Department of Elementary and Secondary Education For the Missouri Schools for the Severely Disabled	
From Handicapped Children's Trust Fund	\$30,000E

SECTION 2.260. — To the Department of Elementary and Secondary Education For the Missouri Commission for the Deaf and Hard of Hearing	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$213,077
From Missouri Commission for the Deaf and Hard of Hearing Fund	117,000

Expense and Equipment	
From Missouri Commission for the Deaf and Hard of Hearing Board of Certification of Interpreters Fund	<u>52,100</u>
Total (Not to exceed 6.00 F.T.E.)	\$382,177

SECTION 2.265. — To the Department of Elementary and Secondary Education For the Missouri Assistive Technology Council	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	

From Federal Funds	\$801,874E
From Deaf Relay Service and Equipment Distribution Program Fund	1,870,466
From Assistive Technology Loan Revolving Fund	340,140

Expense and Equipment	
From Assistive Technology Trust Fund	750,000
Total (Not to exceed 10.00 F.T.E.)	\$3,762,480

SECTION 2.270.— To the Department of Elementary and Secondary Education
For the Children's Services Commission
From Children's Service Commission Fund \$10,000

SECTION 2.275.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
General Revenue Fund, to the State School Moneys Fund
From General Revenue Fund \$2,042,646,772

SECTION 2.280.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
General Revenue Fund-County Foreign Tax Distribution, to the
State School Moneys Fund
From General Revenue Fund \$103,800,000E

SECTION 2.285.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
Fair Share Fund, to the State School Moneys Fund
From Fair Share Fund \$21,600,000E

SECTION 2.290.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
General Revenue Fund, to the Outstanding Schools Trust Fund
From General Revenue Fund \$448,600,000E

SECTION 2.295.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
Gaming Proceeds for Education Fund, to the Classroom Trust Fund
From Gaming Proceeds for Education Fund \$371,308,000E

SECTION 2.300.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
Lottery Proceeds Fund, to the Classroom Trust Fund
From Lottery Proceeds Fund \$12,160,473

SECTION 2.305.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
Gaming Proceeds for Education Fund, to the School District Bond Fund
From Gaming Proceeds for Education Fund \$392,000

SECTION 2.310.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
School Building Revolving Fund, to the State School Moneys Fund
From School Building Revolving Fund \$1,000,000E

BILL TOTALS

General Revenue Fund	\$2,720,046,017
Federal Budget Stabilization Fund	246,557,436
Federal Funds	997,828,378
Other Funds	<u>1,398,673,044</u>
Total	\$5,363,104,875

Approved June 17, 2010

HB 2003 [CCS SS SCS HCS HB 2003]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF HIGHER EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Higher Education, the several divisions, programs, and institutions of higher education included therein to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011 as follows:

SECTION 3.005.— To the Department of Higher Education

For Higher Education Coordination, for regulation of proprietary schools as provided in Section 173.600, RSMo, and for grant and scholarship program administration

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$1,054,713
From Federal and Other Funds	237,046E

For workshops and conferences sponsored by the Department of Higher Education, and for distribution of federal funds to higher education institutions, to be paid for on a cost-recovery basis

From Quality Improvement Revolving Fund	<u>200,000E</u>
Total (No to exceed 22.58 F.T.E.)	\$1,491,759

SECTION 3.010.— To the Department of Higher Education

For indemnifying individuals as a result of improper actions on the part of proprietary schools as provided in Section 173.612, RSMo

From Proprietary School Bond Fund	\$100,000
-----------------------------------------	-----------

SECTION 3.015.— To the Department of Higher Education
 For annual membership in the Midwestern Higher Education Compact
 From General Revenue Fund \$95,000

SECTION 3.020.— To the Department of Higher Education
 For the Eisenhower Science and Mathematics Program and the Improving
 Teacher Quality State Grants Program
 Personal Service \$64,022
 Expense and Equipment 20,400
 Federal Education Programs 1,698,000
 From Federal Funds (No to exceed 1.00 F.T.E.) \$1,782,422

SECTION 3.025.— To the Department of Higher Education
 For receiving and expending donations and federal funds, provided
 that the General Assembly shall be notified of the source of any
 new funds and the purpose for which they shall be expended, in
 writing, prior to the expenditure of said funds
 From Federal and Other Funds \$2,000,000

SECTION 3.030.— To the Department of Higher Education
 For receiving and expending federal College Access Challenge Grants
 From Federal Funds \$1,148,535

SECTION 3.035.— To the Department of Higher Education
 Funds are to be transferred out of the State Treasury, chargeable to
 the General Revenue Fund, to the Academic Scholarship Fund
 From General Revenue Fund \$16,359,000

SECTION 3.040.— To the Department of Higher Education
 For Higher Education Academic Scholarship Program awards of up to
 \$2,000 for students scoring in the top three percent (3%) in the
 American College Test (ACT) or the Scholastic Aptitude Test
 (SAT) pursuant to Chapter 173, RSMo
 From Academic Scholarship Fund \$16,359,000E

SECTION 3.045.— To the Department of Higher Education
 Funds are to be transferred out of the State Treasury, chargeable to the funds
 listed below, to the Access Missouri Financial Assistance Fund
 From General Revenue Fund \$64,860,640
 From Federal Funds 1,000,000E
 From Lottery Proceeds Fund 11,916,667
 From Missouri Student Grant Program Gift Fund 50,000E
 Total \$77,827,307

SECTION 3.050.— To the Department of Higher Education
 For the Access Missouri Financial Assistance Program pursuant to
 Chapter 173, RSMo
 From Access Missouri Financial Assistance Fund \$82,827,307E

SECTION 3.055.— To the Department of Higher Education
 Funds are to be transferred out of the State Treasury, chargeable to the funds
 listed below, to the A+ Schools Fund

From General Revenue Fund	\$753,878
From Lottery Proceeds Fund	<u>21,659,448</u>
Total	\$22,413,326

SECTION 3.060.— To the Department of Higher Education

For the A+ Schools Program

From A+ Schools Fund	\$22,413,326E
----------------------------	---------------

SECTION 3.065.— To the Department of Higher EducationFor the Public Service Officer or Employee Survivor Grant Program
pursuant to Section 173.260, RSMo

From General Revenue Fund	\$100,000
---------------------------------	-----------

SECTION 3.070.— To the Department of Higher EducationFor the Vietnam Veterans Survivors Scholarship Program pursuant to
Section 173.236, RSMo

From General Revenue Fund	\$50,000
---------------------------------	----------

SECTION 3.075.— To the Department of Higher EducationFunds are to be transferred out of the State Treasury, chargeable to the
General Revenue Fund, to the Marguerite Ross Barnett Scholarship Fund

From General Revenue Fund	\$403,750
---------------------------------	-----------

SECTION 3.080.— To the Department of Higher EducationFor the Marguerite Ross Barnett Scholarship Program pursuant to
Section 173.262, RSMo

From Marguerite Ross Barnett Scholarship Fund	\$403,750E
-----------------------------------------------------	------------

SECTION 3.085.— To the Department of Higher Education

For the Kids' Chance Scholarship Program pursuant to Chapter 173, RSMo

From Kids' Chance Scholarship Fund	\$27,750
------------------------------------------	----------

SECTION 3.090.— To the Department of Higher Education

For the Veteran's Survivors Grant Program pursuant to Section 173.234, RSMo

From General Revenue Fund	\$281,250
---------------------------------	-----------

SECTION 3.095.— To the Department of Higher Education

For minority teaching student scholarships pursuant to Section 161.415, RSMo

From Lottery Proceeds Fund	\$169,000
----------------------------------	-----------

SECTION 3.100.— To the Department of Higher EducationFor the Minority and Underrepresented Environmental Literacy Program
pursuant to Section 640.240, RSMo

From General Revenue Fund	\$32,964
---------------------------------	----------

From Recruitment and Retention Scholarship Fund	<u>50,000</u>
-------------------------------------------------------	---------------

Total	\$82,964
-------------	----------

SECTION 3.105.— To the Department of Higher Education

For the Advantage Missouri Program pursuant to Chapter 173, RSMo

From Advantage Missouri Trust Fund	\$15,000E
------------------------------------------	-----------

SECTION 3.110.— To the Department of Higher Education

For GEAR-UP Program scholarships

From GEAR-UP Scholarship Fund \$450,000E

SECTION 3.115.— To the Department of Higher Education

For the Missouri Guaranteed Student Loan Program

Personal Service and/or Expense and Equipment \$10,611,848

Default prevention activities 890,000

Payment of fees for collection of defaulted loans 4,000,000E

Payment of penalties to the federal government associated with
late deposit of default collections 500,000

From Guaranty Agency Operating Fund (No to exceed 52.09 F.T.E.) \$16,001,848

SECTION 3.120.— To the Department of Higher Education

Funds are to be transferred out of the State Treasury, chargeable to the Federal

Student Loan Reserve Fund, to the Guaranty Agency Operating Fund

From Federal Student Loan Reserve Fund \$8,000,000E

SECTION 3.125.— To the Department of Higher Education

For purchase of defaulted loans, payment of default aversion fees,

reimbursement to the federal government, and investment of funds

in the Federal Student Loan Reserve Fund

From Federal Student Loan Reserve Fund \$145,000,000E

SECTION 3.130.— To the Department of Higher Education

For payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund \$250,000E

SECTION 3.135.— To the Department of Higher Education

Funds are to be transferred out of the State Treasury, chargeable to the

Guaranty Agency Operating Fund, to the Federal Student Loan

Reserve Fund

From Guaranty Agency Operating Fund \$1,000,000E

SECTION 3.140.— To the Department of Higher Education

For lender of last resort loans

From Lender of Last Resort Revolving Fund \$1E

SECTION 3.145.— To the Department of Higher Education

For distribution to community colleges as provided in Section 163.191, RSMo

From General Revenue Fund \$122,265,028

From Lottery Proceeds Fund 7,452,485

From Federal Budget Stabilization Fund 6,165,708

For maintenance and repair at community colleges, local matching funds must

be provided on a 50/50 state/local match rate in order to be eligible for

state funds

From General Revenue Fund 4,778,387

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund	250,000E
Total	\$140,911,608

SECTION 3.150.— To Linn State Technical College

All Expenditures	
From General Revenue Fund	\$4,326,177
From Lottery Proceeds Fund	420,528
From Federal Budget Stabilization Fund	217,604

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	30,000E
Total	\$4,994,309

SECTION 3.155.— To the University of Central Missouri

All Expenditures	
From General Revenue Fund	\$49,105,576
From Lottery Proceeds Fund	4,985,715
From Federal Budget Stabilization Fund	2,479,712

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$56,646,003

SECTION 3.160.— To Southeast Missouri State University

All Expenditures	
From General Revenue Fund	\$40,032,839
From Lottery Proceeds Fund	4,059,895
From Federal Budget Stabilization Fund	2,021,347

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$46,189,081

SECTION 3.165.— To Missouri State University

All Expenditures	
From General Revenue Fund	\$73,899,866
From Lottery Proceeds Fund	7,675,409
From Federal Budget Stabilization Fund	3,739,663

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$85,389,938

SECTION 3.170.— To Lincoln University

All Expenditures	
From General Revenue Fund	\$16,378,119
From Lottery Proceeds Fund	1,551,205
From Federal Budget Stabilization Fund	821,936

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$18,826,260

SECTION 3.175.— To Truman State University

All Expenditures

From General Revenue Fund	\$37,158,273
From Lottery Proceeds Fund	3,776,109
From Federal Budget Stabilization Fund	1,876,559

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$42,885,941

SECTION 3.180.— To Northwest Missouri State University

All Expenditures

From General Revenue Fund	\$27,401,053
From Lottery Proceeds Fund	2,599,805
From Federal Budget Stabilization Fund	1,375,332

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$31,451,190

SECTION 3.185.— To Missouri Southern State University

All Expenditures

From General Revenue Fund	\$21,228,439
From Lottery Proceeds Fund	1,972,820
From Federal Budget Stabilization Fund	1,063,617

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$24,339,876

SECTION 3.190.— To Missouri Western State University

All Expenditures

From General Revenue Fund	\$19,412,436
From Lottery Proceeds Fund	1,968,039
From Federal Budget Stabilization Fund	980,147

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$22,435,622

SECTION 3.195.— To Harris-Stowe State University

All Expenditures

From General Revenue Fund	\$8,949,783
---------------------------	-------------

From Lottery Proceeds Fund	908,704
From Federal Budget Stabilization Fund	451,944

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	75,000E
Total	\$10,385,431

SECTION 3.200.— To the University of Missouri
For operation of its various campuses and programs

All Expenditures	
From General Revenue Fund	\$372,329,131
From Lottery Proceeds Fund	36,869,596
From Federal Budget Stabilization Fund	18,758,935

For the payment of refunds set off against debt as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund	200,000E
Total	\$428,157,662

SECTION 3.205.— To the University of Missouri
For the Missouri Telehealth Network

All Expenditures	
From General Revenue Fund	\$156,681
From Healthy Families Trust Fund	437,640
Total	\$594,321

SECTION 3.210.— To the University of Missouri
For the Missouri Research and Education Network (MOREnet)

All Expenditures	
From General Revenue Fund	\$6,823,717

SECTION 3.215.— To the University of Missouri
For the University of Missouri Hospital and Clinics

All Expenditures	
From General Revenue Fund	\$8,454,932

SECTION 3.220.— To the University of Missouri
For the Missouri Rehabilitation Center

All Expenditures	
From General Revenue Fund	\$10,337,870

SECTION 3.225.— To the University of Missouri
For a program of research into spinal cord injuries

All Expenditures	
From Spinal Cord Injury Fund	\$400,000E

SECTION 3.230.— To the University of Missouri
For the Missouri Institute of Mental Health

All Expenditures	
From General Revenue Fund	\$500,000

SECTION 3.235.— To the University of Missouri
For the treatment of renal disease in a statewide program

All Expenditures
From General Revenue Fund \$2,880,299

SECTION 3.240.— To the University of Missouri
For the State Historical Society

All Expenditures
From General Revenue Fund \$1,227,605

SECTION 3.245.— To the Board of Curators of the University of Missouri
For investment in registered federal, state, county, municipal, or
school district bonds as provided by law

From State Seminary Fund \$3,000,000

SECTION 3.250.— To the Board of Curators of the University of Missouri
For use by the University of Missouri pursuant to Sections 172.610
through 172.720, RSMo

From State Seminary Moneys Fund \$250,000

BILL TOTALS

General Revenue Fund	\$911,637,406
Federal Budget Stabilization Funds	39,952,504
Federal Funds	6,168,003
Other Funds	273,724,914
Total	\$1,231,482,827

Approved June 17, 2010

HB 2004 [CCS SCS HCS HB 2004]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF REVENUE, DEPARTMENT OF TRANSPORTATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Revenue and the Department of Transportation, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011, as follows:

SECTION 4.005.— To the Department of Revenue

For the purpose of collecting highway related fees and taxes

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment also twenty-five percent (25%) flexibility is allowed between Sections 4.005, 4.010, 4.015, 4.020, 4.025

From General Revenue Fund	\$10,291,683
From State Highways and Transportation Department Fund	<u>11,830,895</u>
Total (Not to exceed 454.39 F.T.E.)	\$22,122,578

SECTION 4.010.— To the Department of Revenue

For the Division of Taxation

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment also twenty-five percent (25%) flexibility is allowed between Sections 4.005, 4.010, 4.015, 4.020, 4.025

From General Revenue Fund	\$22,779,563
From Petroleum Storage Tank Insurance Fund	27,654
From Petroleum Inspection Fund	35,497
From Health Initiatives Fund	53,714
From Conservation Commission Fund	555,816
From Elderly Home-Delivered Meals Trust Fund	<u>12,582</u>
Total (Not to exceed 621.60 F.T.E.)	\$23,464,826

SECTION 4.015.— To the Department of Revenue

For the Division of Motor Vehicle and Driver Licensing

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment also twenty-five percent (25%) flexibility is allowed between Sections 4.005, 4.010, 4.015, 4.020, 4.025

From General Revenue Fund	\$197,177
From Federal Funds	578,957E
From Department of Revenue Information Fund	489,829
From Motor Vehicle Commission Fund	618,978
From Department of Revenue Specialty Plate Fund	<u>5,206E</u>
Total (Not to exceed 33.05 F.T.E.)	\$1,890,147

SECTION 4.020.— To the Department of Revenue

For the Division of Legal Services

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment also twenty-five percent (25%) flexibility is allowed between Sections 4.005, 4.010, 4.015, 4.020, 4.025

From General Revenue Fund	\$1,569,786
From Federal Funds	265,824E
From Motor Vehicle Commission Fund	<u>492,058</u>
Total (Not to exceed 52.15 F.T.E.)	\$2,327,668

SECTION 4.025.— To the Department of Revenue

For the Division of Administration

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal

service and expense and equipment also twenty-five percent (25%)
flexibility is allowed between Sections 4.005, 4.010, 4.015, 4.020, 4.025

From General Revenue Fund	\$1,404,353
From Federal Funds	6,020,764E
From Department of Revenue Information Fund	119,433
From Child Support Enforcement Fund	2,624,213

For postage

Expense and Equipment	
From General Revenue Fund	2,434,693
From Health Initiatives Fund	5,373
From Motor Vehicle Commission Fund	44,029
From Conservation Commission Fund	1,343
From Department of Revenue Information Fund	199,611
Total (Not to exceed 39.66 F.T.E.)	\$12,853,812

SECTION 4.035.— To the Department of Revenue

For the State Tax Commission

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund	\$2,743,835
---------------------------------	-------------

Expense and Equipment

For the Productive Capability of Agricultural and Horticultural Land Use Study

From General Revenue Fund	4,250
Total (Not to exceed 54.00 F.T.E.)	\$2,748,085

SECTION 4.040.— To the Department of Revenue

For the state's share of the costs and expenses incurred pursuant to
an approved assessment and equalization maintenance plan as

provided by Chapter 137, RSMo

From General Revenue Fund	\$12,480,296
---------------------------------	--------------

SECTION 4.045.— To the Department of Revenue

For payment of fees to counties as a result of delinquent collections made by
circuit attorneys or prosecuting attorneys and payment of collection
agency fees

From General Revenue Fund	\$2,009,425E
---------------------------------	--------------

SECTION 4.050.— To the Department of Revenue

For payment of fees to counties for the filing of lien notices and lien releases

From General Revenue Fund	\$465,000
---------------------------------	-----------

SECTION 4.055.— To the Department of Revenue

For distribution to the several counties and the City of St. Louis to offset
property taxes for homestead preservation

From General Revenue Fund	\$796,191
---------------------------------	-----------

SECTION 4.060.— To the Department of Revenue

For distribution to cities and counties of all funds accruing to the Motor

Fuel Tax Fund under the provisions of Sections 30(a) and 30(b),
Article IV, Constitution of Missouri
From Motor Fuel Tax Fund \$188,000,000E

SECTION 4.065.— To the Department of Revenue
For distribution to Veterans of Foreign Wars Department of Missouri of all
emblem use fee contributions collected for the SOME GAVE ALL
specialty plate
From General Revenue Fund \$1,000E

SECTION 4.070.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any
payment that is credited to the General Revenue Fund
From General Revenue Fund \$1,434,000,000E

SECTION 4.075.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any
payment credited to Federal and Other Funds
From Federal and Other Funds \$34,850E

SECTION 4.080.— To the Department of Revenue
For the purpose of refunding any tax or fee credited to the State Highways
and Transportation Department Fund
From State Highways and Transportation Department Fund \$2,290,564E

SECTION 4.085.— To the Department of Revenue
For the purpose of refunding any overpayment or erroneous payment of
any amount credited to the Aviation Trust Fund
From Aviation Trust Fund \$50,000E

SECTION 4.090.— To the Department of Revenue
For refunds and distributions of motor fuel taxes
From State Highways and Transportation Department Fund \$10,414,000E

SECTION 4.095.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any
payment credited to the Workers' Compensation Fund
From Workers' Compensation Fund \$450,000E

SECTION 4.100.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any
payment for tobacco taxes
From Health Initiatives Fund \$25,000E
From State School Moneys Fund 25,000E
From Fair Share Fund 11,000E
Total \$61,000

SECTION 4.105.— To the Department of Revenue
For apportionments to the several counties and the City of St. Louis
to offset credits taken against the County Stock Insurance Tax
From General Revenue Fund \$500,000E

SECTION 4.110.— To the Department of Revenue

For the payment of local sales tax delinquencies set off by tax credits

From General Revenue Fund \$200,000E

SECTION 4.115.— There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, such amounts as may be
necessary to make payments of refunds set off against debts as
required by Section 143.786, RSMo, to the Debt Offset Escrow Fund

From General Revenue Fund \$11,292,384E

SECTION 4.120.— There is transferred out of the State Treasury, chargeable
to the General Revenue Fund, such amounts as may be necessary to
make payments of refunds set off against debts as required by Section
488.020(3), RSMo, to the Circuit Courts Escrow Fund

From General Revenue Fund \$505,500E

SECTION 4.125.— For the payment of refunds set off against debts as
required by Section 143.786, RSMo

From Debt Offset Escrow Fund \$1,164,119E

SECTION 4.130.— There is transferred out of the State Treasury, chargeable
to the School District Trust Fund, to the General Revenue Fund

From School District Trust Fund \$2,500,000

SECTION 4.135.— There is transferred out of the State Treasury, chargeable
to the Parks Sales Tax Fund, sixty-six hundredths percent of the funds
received, to the General Revenue Fund

From Parks Sales Tax Fund \$240,000E

SECTION 4.140.— There is transferred out of the State Treasury, chargeable
to the Soil and Water Sales Tax Fund, sixty-six hundredths percent of the
funds received, to the General Revenue Fund

From Soil and Water Sales Tax Fund \$240,000E

SECTION 4.145.— There is transferred out of the State Treasury, chargeable
to the General Revenue Fund, such amounts generated by development
projects, as required by Section 99.963, RSMo, to the State
Supplemental Downtown Development Fund

From General Revenue Fund \$1,240,450

SECTION 4.150.— There is transferred out of the state treasury, chargeable
to the General Revenue Fund, such amounts generated by redevelopment
projects, as required by Section 99.1092, RSMo, to the Downtown
Revitalization Preservation Fund

From General Revenue Fund \$150,000

SECTION 4.160.— There is transferred out of the State Treasury, chargeable
to the General Revenue Fund, amounts from income tax refunds
designated by taxpayers for deposit in various income tax check-off funds

From General Revenue Fund \$396,000E

SECTION 4.165.— There is transferred out of the State Treasury, chargeable to various income tax check-off funds, amounts from income tax refunds erroneously deposited to said funds, to the General Revenue Fund
 From Other Funds \$13,669E

SECTION 4.170.— For distribution from the various income tax check-off charitable trust funds
 From Other Funds \$31,500E

SECTION 4.175.— There is transferred out of the State Treasury, chargeable to the Department of Revenue Information Fund, to the State Highways and Transportation Department Fund
 From Department of Revenue Information Fund \$250,000E

SECTION 4.180.— There is transferred out of the State Treasury, chargeable to the Motor Fuel Tax Fund, to the State Highways and Transportation Department Fund
 From Motor Fuel Tax Fund \$560,178,001E

SECTION 4.185.— There is transferred out of the State Treasury, chargeable to the Department of Revenue Specialty Plate Fund, to the State Highways and Transportation Department Fund
 From Department of Revenue Specialty Plate Fund \$10,000E

SECTION 4.190.— To the Department of Revenue
 For the State Lottery Commission
 For any and all expenditures, including operating, maintenance and repair, and minor renovations, necessary for the purpose of operating a state lottery, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
 Personal Service \$6,993,837
 Expense and Equipment 39,253,502E
 From Lottery Enterprise Fund (Not to exceed 163.50 F.T.E) \$46,247,339

SECTION 4.195.— To the Department of Revenue
 For the State Lottery Commission
 For the payment of prizes
 From Lottery Enterprise Fund \$102,000,000E

SECTION 4.200.— There is transferred out of the State Treasury, chargeable to the Lottery Enterprise Fund, to the Lottery Proceeds Fund
 From Lottery Enterprise Fund \$259,000,000E

SECTION 4.400.— To the Department of Transportation
 For the Highways and Transportation Commission and Highway Program
 Administration
 Personal Service \$21,722,011E
 Expense and Equipment 5,289,263E
 From State Road Fund (Not to exceed 439.57 F.T.E.) \$27,011,274

SECTION 4.405.— To the Department of Transportation
 For department-wide fringe expenses

For Administration fringe benefits	
Personal Service	\$12,319,181E
Expense and Equipment	<u>14,377,622E</u>
From State Road Fund	26,696,803
For Construction Program fringe benefits	
Personal Service	48,223,062E
Expense and Equipment	<u>2,288,768E</u>
From State Road Fund	50,511,830
For Maintenance Program fringe benefits	
Personal Service	166,676E
Expense and Equipment	<u>2,923E</u>
From Federal Funds	169,599
Personal Service	92,237,960E
Expense and Equipment	<u>4,402,737E</u>
From State Road Fund	96,640,697
For Fleet, Facilities, and Information Systems fringe benefits	
Personal Service	9,659,559E
Expense and Equipment	<u>337,075E</u>
From State Road Fund	9,996,634
For Multimodal Operations fringe benefits	
Personal Service	
From Federal Funds	306,167E
From State Road Fund	221,072E
From Railroad Expense Fund	233,595E
From State Transportation Fund	82,836E
From Aviation Trust Fund	<u>232,103E</u>
Total	\$185,091,336

SECTION 4.410.— To the Department of Transportation

For the Construction Program

To pay the costs of reimbursing counties and other political subdivisions for the acquisition of roads and bridges taken over by the state as permanent parts of the state highway system, and for the costs of locating, relocating, establishing, acquiring, constructing, reconstructing, widening, and improving those highways, bridges, tunnels, parkways, travelways, tourways, and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies relating to the location and construction of highways and bridges; and to receive funds from the United States Government for like purposes	
Personal Service	\$82,089,368E
Expense and Equipment	24,509,634E
Construction	<u>1,460,224,949E</u>
From State Road Fund	1,566,823,951

For all expenditures associated with refunding outstanding state road bond debt

From State Road and State Road Bond Funds	<u>281,020,000E</u>
Total (Not to exceed 1,806.26 F.T.E.)	<u>\$1,847,843,951</u>

SECTION 4.415.— To the Department of Transportation

For the Maintenance Program

To pay the costs of preserving and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the preservation, maintenance, and safety of highways and bridges

Personal Service	\$356,502E
Expense and Equipment	<u>55,000E</u>
From Federal Funds	411,502

Personal Service	150,547,835E
Expense and Equipment	<u>206,267,375E</u>
From State Road Fund	356,815,210

Expense and Equipment	
From Motorcycle Safety Trust Fund	425,000E

For all allotments, grants, and contributions from federal sources that may be deposited in the State Treasury for grants of National Highway Safety Act moneys

From Federal Funds	30,000,000E
--------------------------	-------------

For the Motor Carrier Safety Assistance Program

From Federal Funds	2,000,000E
--------------------------	------------

For the Safe Routes to School Program

From State Road Fund	<u>2,500,000E</u>
Total (Not to exceed 3,958.93 F.T.E.)	<u>\$392,151,712</u>

SECTION 4.420.— To the Department of Transportation

For Fleet, Facilities, and Information Systems

To pay the costs of constructing, preserving, and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the construction, preservation, and maintenance of highways and bridges

Personal Service	\$16,531,179E
Expense and Equipment	<u>86,176,298E</u>
From State Road Fund (Not to exceed 375.25 F.T.E.)	<u>\$102,707,477</u>

SECTION 4.425.— To the Department of Transportation

For the purpose of refunding any tax or fee credited to the State Highways and Transportation Department Fund

	\$200,000E
For refunds and distributions of motor fuel taxes	<u>30,000,000E</u>

From State Highways and Transportation Department Fund \$30,200,000

SECTION 4.430.— Funds are to be transferred out of the State Treasury,
chargeable to the State Highways and Transportation Department Fund,
to the State Road Fund

From State Highways and Transportation Department Fund \$525,000,000E

SECTION 4.435.— To the Department of Transportation
For Multimodal Operations Administration

Personal Service	\$539,586E
Expense and Equipment	<u>400,000E</u>
From Federal Funds	939,586

Personal Service	429,959E
Expense and Equipment	<u>25,897E</u>
From State Road Fund	455,856

Personal Service	433,616
Expense and Equipment	<u>151,421</u>
From Railroad Expense Fund	585,037

Personal Service	155,184
Expense and Equipment	<u>10,395</u>
From State Transportation Fund	165,579

Personal Service	478,560
Expense and Equipment	<u>24,827</u>
From Aviation Trust Fund	503,387
Total (Not to exceed 36.67 F.T.E.)	<u>\$2,649,445</u>

SECTION 4.440.— To the Department of Transportation
For Multimodal Operations

For reimbursements to the State Road Fund for providing professional and
technical services and administrative support of the multimodal program

From Federal Funds	\$83,500
From Railroad Expense Fund	102,532
From State Transportation Fund	50,951
From Aviation Trust Fund	<u>75,567</u>
Total	<u>\$312,550</u>

SECTION 4.445.— To the Department of Transportation
For Multimodal Operations

For loans from the State Transportation Assistance Revolving Fund to political
subdivisions of the state or to public or private not-for-profit organizations
or entities in accordance with Section 226.191, RSMo

From State Transportation Assistance Revolving Fund \$550,000E

SECTION 4.450.— To the Department of Transportation
For Multimodal Operations

For pass-through federal assistance for all modes within Multimodal
including, but not limited to, transit, rail, aviation, port and freight

From Federal Funds \$1E

SECTION 4.455.— To the Department of Transportation

For the Transit Program

For distributing funds to urban, small urban, and rural transportation systems

From General Revenue Fund \$3,040,713

From State Transportation Fund 560,875

For distribution to a public transit provider whose service area includes any
home rule city with more than four hundred thousand inhabitants and
that is located in more than one countyFrom General Revenue Fund 3,000,000Total \$6,601,588**SECTION 4.460.**— To the Department of Transportation

For the Transit Program

For locally matched capital improvement grants under Section 5310, Title 49,
United States Code to assist private, non-profit organizations in improving
public transportation for the state's elderly and people with disabilitiesFrom Federal Funds \$2,586,400E

For the New Freedom Transit Program

For locally matched grants under Section 5317, Title 49, United States Code
to assist disabled persons with transportation services beyond those
required by the Americans with Disabilities ActFrom Federal Funds 600,000ETotal \$3,186,400**SECTION 4.465.**— To the Department of Transportation

For the Transit Program

For an operating subsidy for not-for-profit transporters of the elderly, people
with disabilities, and low-income individualsFrom General Revenue Fund \$1,194,129From State Transportation Fund 1,274,478Total \$2,468,607**SECTION 4.470.**— To the Department of Transportation

For the Transit Program

For locally matched grants to small urban and rural areas under Section 5311,
Title 49, United States CodeFrom Federal and Local Funds \$9,540,000E

For the Job Access and Reverse Commute Grants Program

For locally matched grants to small urban and rural areas under Section
5316, Title 49, United States Code to provide employment related
transportation for low-income personsFrom Federal Funds 1,200,000ETotal \$10,740,000**SECTION 4.475.**— To the Department of Transportation

For the Transit Program

For grants under Section 5309, Title 49, United States Code to assist private,
non-profit organizations providing public transportation servicesFrom Federal Funds \$8,480,000E

SECTION 4.480.— To the Department of Transportation

For the Transit Program

For grants to metropolitan areas under Section 5305, Title 49, United States

Code

From Federal Funds \$6,365,194E

SECTION 4.485.— To the Department of Transportation

For the Rail Program

For grants to study the feasibility of high speed rail service

From Federal Funds \$1E

SECTION 4.490.— To the Department of Transportation

For the Light Rail Safety Program

From Light Rail Safety Fund \$1E

SECTION 4.495.— To the Department of Transportation

For the Rail Program

For passenger rail service in Missouri

From General Revenue Fund \$8,100,000

SECTION 4.500.— To the Department of Transportation

For station repairs and improvements at Missouri Amtrak stations

From State Transportation Fund \$25,000

SECTION 4.505.— To the Department of TransportationFor protection of the public against hazards existing at railroad crossings
pursuant to Chapter 389, RSMo

From Transportation Department Grade Crossing Safety Account \$1,500,000E

SECTION 4.510.— There is transferred out of the State Treasury, chargeable
to the Transportation Department Grade Crossing Safety Account, to
the Railroad Expense Fund

From Transportation Department Grade Crossing Safety Account \$100,000

SECTION 4.515.— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, and maintenance of publicly owned
airfields, including land acquisition, and for printing charts and directories

From Aviation Trust Fund \$8,000,000E

SECTION 4.520.— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, or planning of publicly owned airfields
by cities or other political subdivisions, including land acquisition, pursuant
to the provisions of the State Block Grant Program administered through
the Federal Airport Improvement Program

From Federal Funds \$12,500,000E

SECTION 4.525.— To the Department of Transportation

For the Waterways Program

For grants to port authorities for assistance in port planning, acquisition, or
construction within the port districts

From State Transportation Fund \$359,747

DEPARTMENT OF REVENUE TOTALS

General Revenue Fund \$71,461,586
 Federal Funds 6,865,545
 Other Funds 353,363,570
 Total \$431,690,701

DEPARTMENT OF TRANSPORTATION TOTALS

General Revenue Fund \$15,334,842
 Federal Funds 75,181,950
 Other Funds 2,536,127,492
 Total \$2,626,644,284

Approved June 17, 2010

HB 2005 [CCS SCS HCS HB 2005]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: OFFICE OF ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, DEPARTMENT OF PUBLIC SAFETY, AND CHIEF EXECUTIVE'S OFFICE.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Office of Administration, the Department of Transportation, the Department of Public Safety, and the Chief Executive's Office, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011, as follows:

SECTION 5.005.— To the Office of Administration

For the Commissioner's Office

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$938,709

For the Office of Supplier and Workforce Diversity

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

336,577

For the Martin Luther King, Jr. Commission	
Expense and Equipment	30,877
From General Revenue Fund	367,454
Total (Not to exceed 19.50 F.T.E.)	\$1,306,163

SECTION 5.010.— To the Office of Administration

For the Division of Accounting	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund (Not to exceed 50.00 F.T.E.)	\$2,176,122

SECTION 5.015.— To the Office of Administration

For the Division of Budget and Planning	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$1,639,387

For Census 2010 and reapportionment activities	
From General Revenue Fund	596,353

For the purpose of auditing the use of federal American Recovery and Reinvestment Act funds	
From Federal Budget Stabilization Fund	528,000
Total (Not to exceed 30.00 F.T.E.)	\$2,763,740

SECTION 5.020.— To the Office of Administration

For the Information Technology Services Division	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment including funds used exclusively to support the information technology needs of the Department of Revenue in performance of its duties to collect highway revenue pursuant to Article IV, Section 30(b) of the Missouri Constitution	
From General Revenue Fund	\$42,489,135

Personal Service and/or Expense and Equipment	
From Federal and Other Funds	156,697,204

In addition, there is hereby appropriated out of funds made available to Missouri under Section 903 of the Social Security Act, as necessary, to be used, under the direction of the Information Technology Services Division, Personal Service and/or Expense and Equipment, for the purpose of acquiring or developing information technology equipment, software, or systems for the administration of Missouri's Unemployment Compensation Law and for such information technology expenses which may be incurred to ensure the proper use and operation of any information technology equipment, software, or systems	
From Federal Funds	798,281
Total (Not to exceed 1,145.10 F.T.E.)	\$199,984,620

SECTION 5.025.— To the Office of Administration
 For the Information Technology Services Division
 For the centralized telephone billing system
 Expense and Equipment
 From Office of Administration Revolving Administrative Trust Fund \$30,005,000E

SECTION 5.030.— To the Office of Administration
 For the Division of Personnel
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund \$2,275,554
 From Office of Administration Revolving Administrative Trust Fund 384,511
 Total (Not to exceed 55.97 F.T.E.) \$2,660,065

SECTION 5.035.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund (Not to exceed 33.00 F.T.E.) \$1,684,462

SECTION 5.040.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For refunding bid and performance bonds
 From Office of Administration Revolving Administrative Trust Fund \$2,112,000E

SECTION 5.045.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For the operation of the State Agency for Surplus Property
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 Personal Service \$746,071
 Expense and Equipment 402,000

For the Fixed Price Vehicle Program
 Expense and Equipment 600,000
 From Federal Surplus Property Fund (Not to exceed 20.00 F.T.E.) \$1,748,071

SECTION 5.050.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For Surplus Property recycling activities
 Personal Service \$45,984
 Expense and Equipment 41,610E
 From Federal Surplus Property Fund (Not to exceed 1.00 F.T.E.) \$87,594

SECTION 5.055.— There is transferred out of the State Treasury, chargeable
 to the Federal Surplus Property Fund, to the Department of Social Services
 for the heating assistance program, as provided by Section 34.032, RSMo.
 From Federal Surplus Property Fund \$20,000E

SECTION 5.060.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For the disbursement of surplus property sales receipts
 From Proceeds of Surplus Property Sales Fund \$90,000E

SECTION 5.065.— There is transferred out of the State Treasury, chargeable
 to the Proceeds of Surplus Property Sales Fund, to various state agency
 funds
 From Proceeds of Surplus Property Sales Fund \$1,000,000E

SECTION 5.070.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 Asset Management
 For authority to spend donated funds to support renovations and
 operations of the Governor's Mansion
 From State Facility Maintenance and Operation Fund \$30,000E

SECTION 5.075.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 Asset Management
 For any and all expenditures necessary for the purpose of funding the operations
 of the Board of Public Buildings, state-owned and leased office buildings,
 institutional facilities, laboratories, and support facilities
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From State Facility Maintenance and Operation Fund (Not to exceed
 680.00 F.T.E.) \$89,814,652

SECTION 5.080.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 Asset Management
 For the purpose of funding expenditures associated with the Second State
 Capitol Commission
 Expense and Equipment
 From Second Capitol Commission Fund \$25,000E

SECTION 5.085.— To the Board of Public Buildings
 For the Office of Administration
 For the Division of Facilities Management, Design and Construction
 Asset Management
 For modifications, replacement, repair costs, and other support services
 at state-owned facilities when recovery is obtained from a third party
 From State Facility Maintenance and Operation Fund \$708,871E

SECTION 5.090.— To the Office of Administration
 For the Division of General Services
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund \$919,483
 From Office of Administration Revolving Administrative Trust Fund 3,705,251

Total (Not to exceed 106.00 F.T.E.) \$4,624,734

SECTION 5.095.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the State Property Preservation Fund
From General Revenue Fund \$1E

SECTION 5.100.— To the Office of Administration
For the Division of General Services
For the repair or replacement of state-owned or leased facilities that have suffered damage from natural or man-made events or for the defeasance of outstanding debt secured by the damaged facilities when a notice of coverage has been issued by the Commissioner of Administration, as provided by Sections 37.410 through 37.413, RSMo
From State Property Preservation Fund \$1E

SECTION 5.105.— To the Office of Administration
For the Division of General Services
For reimbursable expenses and for the replacement or repair of damaged equipment when recovery is obtained from a third party
Expense and Equipment
From Office of Administration Revolving Administrative Trust Fund \$10,000,000E

SECTION 5.110.— There is transferred out of the State Treasury, chargeable to the funds shown below, for the payment of claims, premiums, and expenses as provided by Sections 105.711 through 105.726, RSMo, the following amounts to the State Legal Expense Fund
From General Revenue Fund \$6,000,000E
From State Highways and Transportation Department Fund 600,000E
From Conservation Commission Fund 130,000E
From Office of Administration Revolving Administrative Trust Fund 25,000E
From Parks Sales Tax Fund 2,286E
From Soil and Water Sales Tax Fund 149E
Total \$6,757,435E

SECTION 5.115.— To the Office of Administration
For the Division of General Services
For the payment of claims and expenses as provided by Section 105.711 et seq., RSMo, and for purchasing insurance against any or all liability of the State of Missouri or any agency, officer, or employee thereof
From State Legal Expense Fund \$6,757,435E

SECTION 5.120.— To the Office of Administration
For the Administrative Hearing Commission
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 15.50 F.T.E.) \$996,480

SECTION 5.125.— To the Office of Administration
For the purpose of funding the Office of Child Advocate
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between

personal service and expense and equipment	
From General Revenue Fund	\$152,268
From Federal Funds	<u>137,997</u>
Total (Not to exceed 4.00 F.T.E.)	\$290,265

SECTION 5.130.— To the Office of Administration

For the administrative, promotional, and programmatic costs of the

Children's Trust Fund Board as provided by Section 210.173, RSMo

Personal Service	\$211,199
Expense and Equipment	<u>145,140</u>
For Program Disbursements	<u>3,360,000E</u>
From Children's Trust Fund (Not to exceed 5.00 F.T.E.)	\$3,716,339

SECTION 5.135.— To the Office of Administration

For the purpose of funding the Governor's Council on Disability

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$190,038
From Office of Administration Revolving Administrative Trust Fund	<u>25,000</u>
Total (Not to exceed 4.00 F.T.E.)	\$215,038

SECTION 5.140.— To the Office of Administration

For those services provided through the Office of Administration that are

contracted with and reimbursed by the Board of Trustees of the Missouri

Public Entity Risk Management Fund as provided by Chapter 537, RSMo

Personal Service	\$645,169
Expense and Equipment	<u>61,847</u>
From Office of Administration Revolving Administrative Trust Fund (Not to exceed 14.00 F.T.E.)	\$707,016

SECTION 5.145.— To the Office of Administration

For the Missouri Ethics Commission

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund (Not to exceed 20.00 F.T.E.)	\$1,235,736
--------------------------------------------------------------	-------------

SECTION 5.150.— To the Office of Administration

For the Division of Accounting

For payment of rent by the state for state agencies occupying Board of

Public Buildings revenue bond financed buildings. Funds are to be
used for principal, interest, bond issuance costs, and reserve fund
requirements of Board of Public Buildings bonds

From General Revenue Fund	\$51,651,907
---------------------------------	--------------

SECTION 5.155.— To the Office of Administration

For the Division of Accounting

For annual fees, arbitrage rebate, refunding, defeasance, and related expenses
of House Bill 5 debt

From General Revenue Fund	\$30,654E
---------------------------------	-----------

SECTION 5.160.— To the Office of Administration

For the Division of Accounting

For payment of the state's lease/purchase debt requirements

From General Revenue Fund \$13,183,113

From State Facilities Maintenance and Operations Fund 2,600,466

Total \$15,783,579

SECTION 5.165.— To the Office of Administration

For the Division of Accounting

For MOHEFA debt service and all related expenses associated with the

Series 2001 MU-Columbia Arena project bonds

From General Revenue Fund \$2,883,580

SECTION 5.170.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For debt service related to guaranteed energy cost savings contracts

From Facilities Maintenance Reserve Fund \$6,000,175

SECTION 5.175.— To the Office of Administration

For the Division of Accounting

For Debt Management

Expense and Equipment

From General Revenue Fund \$85,000

SECTION 5.180.— To the Office of Administration

For the Division of Accounting

For debt service contingency for the New Jobs and Jobs Retention

Training Certificates Program

From General Revenue Fund \$1E

SECTION 5.185.— To the Office of Administration

For the Division of Accounting

For the Bartle Hall Convention Center expansion, operations, development,
or maintenance in Kansas City pursuant to Sections 67.638 through
67.641, RSMo

From General Revenue Fund \$2,000,000

SECTION 5.190.— To the Office of Administration

For the Division of Accounting

For the maintenance of the Jackson County Sports Complex pursuant to

Sections 67.638 through 67.641, RSMo

From General Revenue Fund \$3,000,000

SECTION 5.195.— To the Office of Administration

For the Division of Accounting

For the expansion of the dual-purpose Edward Jones Dome project in St. Louis

From General Revenue Fund \$12,000,000

SECTION 5.200.— To the Office of Administration

For the Division of Accounting

For interest payments on federal grant monies in accordance with the Cash

Management Improvement Act of 1990 and 1992, and any other interest

or penalties due to the federal government
 From General Revenue Fund \$300,000E

SECTION 5.205.— To the Office of Administration

For the Division of Accounting

For audit recovery distribution

From General Revenue Fund \$1E

SECTION 5.210.— There is transferred out of the State Treasury, chargeable to the Budget Reserve Fund and Other Funds, such amounts as may be necessary for cash-flow assistance to various funds, provided, however, that funds other than the Budget Reserve Fund will not be used without prior notification to the Commissioner of the Office of Administration, the Chair of the Senate Appropriations Committee, and the Chair of the House Budget Committee. Cash-flow assistance from funds other than the Budget Reserve Fund shall only be transferred from May 15 to June 30 in any fiscal year, and an amount equal to the transfer received, plus interest, shall be transferred back to the appropriate Other Funds prior to June 30 of the fiscal year in which the transfer was made

From Budget Reserve Fund and Other Funds to General Revenue Fund . . \$399,999,999E
 From Budget Reserve Fund and Other Funds to Other Funds 1E
 Total \$400,000,000

SECTION 5.215.— There is transferred out of the State Treasury, such amounts as may be necessary for repayment of cash-flow assistance to the Budget Reserve Fund and Other Funds, provided, however, that the Commissioner of the Office of Administration, the Chair of the Senate Appropriations Committee, and the Chair of the House Budget Committee shall be notified when repayment to funds, other than the Budget Reserve Fund, has been made

From General Revenue Fund \$325,000,000E
 From Other Funds 75,000,000E
 Total \$400,000,000

SECTION 5.220.— There is transferred out of the State Treasury, such amounts as may be necessary for interest payments on cash-flow assistance, to the Budget Reserve Fund and Other Funds

From General Revenue Fund \$3,000,000E
 From Other Funds 1E
 Total \$3,000,001

SECTION 5.225.— There is transferred out of the State Treasury, such amounts as may be necessary for constitutional requirements of the Budget Reserve Fund

From General Revenue Fund \$1E
 From Budget Reserve Fund 1E
 Total \$2

SECTION 5.230.— There is transferred out of the State Treasury, such amounts as may be necessary for corrections to fund balances

From General Revenue Fund \$1E

From Other Funds	1E
Total	\$2

SECTION 5.240.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the General Revenue Fund

From Healthy Families Trust Fund	\$47,030,585E
----------------------------------------	---------------

SECTION 5.245.— There is transferred out of the State Treasury, chargeable to various funds such amounts as are necessary for allocation of costs to other funds in support of the state's central services performed by the Office of Administration, the Department of Revenue, the Capitol Police, the Elected Officials, and the General Assembly, to the General Revenue Fund

From Other Funds	\$14,017,217E
------------------------	---------------

SECTION 5.250.— There is transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund to the General Revenue Fund

From Federal Budget Stabilization Fund	\$572,388,526
----------------------------------------------	---------------

SECTION 5.255.— There is transferred out of the State Treasury, chargeable to various funds to the General Revenue Fund

From Other Funds	\$27,059,653
------------------------	--------------

SECTION 5.260.— To the Office of Administration
For the Division of Accounting
For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the leases of flood control lands, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri in accordance with the provisions of state law

From Federal Funds	\$865,000E
--------------------------	------------

SECTION 5.265.— To the Office of Administration
For the Division of Accounting
For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the National Forest Reserve, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri

From Federal Funds	\$2,415,000E
--------------------------	--------------

SECTION 5.270.— To the Office of Administration
For the Division of Accounting
For payments to counties for county correctional prosecution reimbursements pursuant to Sections 50.850 and 50.853, RSMo

From General Revenue Fund	\$15,000E
---------------------------------	-----------

SECTION 5.275.— To the Office of Administration
For the Commissioner's Office
For distribution of state grants to regional planning commissions and local governments as provided by Chapter 251, RSMo

From General Revenue Fund	\$100,000
---------------------------------	-----------

SECTION 5.280.— To the Office of Administration

For funding transition costs for the State Auditor

From General Revenue Fund \$12,650

SECTION 5.450.— To the Office of AdministrationFor transferring funds for state employees and participating political
subdivisions to the OASDHI Contributions Fund

From General Revenue Fund \$75,660,915E

From Federal Funds 31,668,084E

From Other Funds 47,470,001E

Total \$154,799,000

SECTION 5.455.— For the Department of Public SafetyFor transferring funds for employees of the State Highway Patrol to the
OASDHI Contributions Fund, said transfers to be administered by
the Office of Administration

From State Highways and Transportation Department Fund \$7,394,000E

SECTION 5.460.— To the Office of Administration

For the Division of Accounting

For the payment of OASDHI taxes for all state employees and for participating
political subdivisions within the state to the Treasurer of the United States
for compliance with current provisions of Title 2 of the Federal Social
Security Act, as amended, in accordance with the agreement between the
State Social Security Administrator and the Secretary of the Department
of Health and Human Services; and for administration of the agreement
under Section 218 of the Social Security Act which extends Social Security
benefits to state and local public employees

From OASDHI Contributions Fund \$162,193,000E

SECTION 5.465.— To the Office of AdministrationFor transferring funds for the state's contribution to the Missouri State
Employees' Retirement System to the State Retirement Contributions
Fund

From General Revenue Fund \$163,129,353E

From Federal Funds 57,738,592E

From Other Funds 47,972,314E

Total \$268,840,259

SECTION 5.470.— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri State Employees'
Retirement System

From State Retirement Contributions Fund \$268,840,259E

SECTION 5.475.— To the Office of Administration

For the Division of Accounting

For payment of retirement benefits to the Public School Retirement System
pursuant to Section 104.342, RSMo

From General Revenue Fund \$2,400,000E

From Federal Funds 1,070,000E

From Other Funds 70,560E

Total \$3,540,560

SECTION 5.495.— To the Office of Administration

For the Division of Accounting

For reimbursing the Division of Employment Security benefit account
for claims paid to former state employees for unemployment insurance
coverage and for related professional services

From General Revenue Fund \$1,658,545E

From Federal Funds 488,664E

From Other Funds 1,705,137E

Total \$3,852,346

SECTION 5.500.— To the Office of Administration

For the Division of Accounting

For reimbursing the Division of Employment Security benefit account for
claims paid to former state employees of the Department of Public Safety
for unemployment insurance coverage and for related professional services

From State Highways and Transportation Department Fund \$169,942E

SECTION 5.505.— To the Office of Administration

For transferring funds for the state's contribution to the Missouri

Consolidated Health Care Plan to the Missouri Consolidated
Health Care Plan Benefit Fund

From General Revenue Fund \$260,457,390E

From Federal Funds 103,845,774E

From Other Funds 63,017,068E

Total \$427,320,232

SECTION 5.510.— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri Consolidated
Health Care Plan

From Missouri Consolidated Health Care Plan Benefit Fund \$427,320,232E

SECTION 5.515.— To the Office of Administration

For transferring funds for the state's contribution for post employment
benefits other than pensions to the Missouri Consolidated Health
Care Plan Benefit Fund

From General Revenue Fund \$5,000,100E

From Federal Funds 1,436,877E

From Other Funds 1,106,541E

Total \$7,543,518

SECTION 5.520.— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution for post employment benefits other
than pensions

From Missouri Consolidated Health Care Plan Benefit Fund \$7,543,518E

SECTION 5.525.— To the Office of Administration

For the Division of Accounting

For paying refunds for overpayment or erroneous payment of employee

withholding taxes
From General Revenue Fund \$36,000E

SECTION 5.530.— To the Office of Administration
For the Division of Accounting
For providing voluntary life insurance
From the Missouri State Employees' Voluntary Life Insurance Fund \$862,000E

SECTION 5.535.— To the Office of Administration
For the Division of Accounting
For employee medical expense reimbursements reserve
From General Revenue Fund \$1E

SECTION 5.540.— To the Office of Administration
For the Division of Accounting
Personal Service for state payroll contingency
From General Revenue Fund \$1E

SECTION 5.545.— To the Office of Administration
For the Division of General Services
For the provision of workers' compensation benefits to state employees
through either a self-insurance program administered by the Office of
Administration and/or by contractual agreement with a private carrier
and for administrative and legal expenses authorized, in part, by
Section 105.810, RSMo
From General Revenue Fund \$23,042,132E
From Conservation Commission Fund 800,000E
Total \$23,842,132

SECTION 5.550.— There is hereby transferred out of the State Treasury,
chargeable to various funds, amounts paid from the General Revenue
Fund for workers' compensation benefits provided to employees paid
from these other funds, to the General Revenue Fund
From Federal Funds \$2,591,703E
From Other Funds 3,473,591E
Total \$6,065,294

SECTION 5.555.— To the Office of Administration
For the Division of General Services
For workers' compensation tax payments pursuant to Section 287.690, RSMo
From General Revenue Fund \$1,465,000E
From Conservation Commission Fund 60,000E
Total \$1,525,000

OFFICE OF ADMINISTRATION TOTALS

General Revenue Fund \$149,923,090
Federal Budget Stabilization Fund 528,000
Federal Funds 72,282,149
Other Funds 63,880,818
Total \$286,614,057

EMPLOYEE BENEFITS TOTALS

General Revenue Fund	\$532,813,437
Federal Funds	196,247,991
Other Funds	<u>170,627,563</u>
Total	<u>\$899,688,991</u>

Approved June 17, 2010

HB 2006 [CCS SCS HCS HB 2006]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF AGRICULTURE, DEPARTMENT OF NATURAL RESOURCES, AND DEPARTMENT OF CONSERVATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, Department of Conservation, and the several divisions and programs thereof and for the expenses, grants, refunds, distributions, and capital improvements projects involving the repair, replacement, and maintenance of state buildings and facilities of the Department of Natural Resources and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds, for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011 as follows:

SECTION 6.005.— To the Department of Agriculture
For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	\$996,997
For refunds of erroneous receipts due to errors in application for licenses, registrations, permits, certificates, subscriptions, or other fees	<u>3,640E</u>
From General Revenue Fund	1,000,637
Personal Service	144,279
Expense and Equipment	<u>34,750</u>
From Federal and Other Funds	179,029

For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds

Personal Service and/or Expense and Equipment	
From Federal and Other Funds	<u>337,909E</u>
Total (Not to exceed 21.00 F.T.E.)	\$1,517,575

SECTION 6.010.— To the Department of Agriculture

For vehicle replacement

From Federal and Other Funds	\$348,651
------------------------------	-----------

SECTION 6.015.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the

General Revenue Fund, to the Veterinary Student Loan Payment Fund

From General Revenue Fund	\$120,000
---------------------------	-----------

SECTION 6.020.— To the Department of Agriculture

For the purpose of providing large animal veterinary student loans in

accordance with the provisions of Section 340.375 to 340.396, RSMo

From Veterinary Student Loan Payment Fund	\$120,000
-------------------------------------------	-----------

SECTION 6.025.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the

General Revenue Fund, to the Missouri Qualified Biodiesel Producer
Incentive Fund

From General Revenue Fund	\$13,387,500
---------------------------	--------------

SECTION 6.030.— To the Department of Agriculture

For Missouri Biodiesel Producer Incentive Payments

A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the fund not to exceed a percentage amount as determined by the actual amount available from the fund divided by the projected total eligible amount. Any eligible amount not paid shall be considered in arrears and paid as funds become available

From Missouri Qualified Biodiesel Producer Incentive Fund	\$13,387,500
-----------------------------------------------------------	--------------

SECTION 6.035.— To the Department of Agriculture

For the Agriculture Business Development Division

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$1,197,302
---------------------------	-------------

Personal Service	128,548
Expense and Equipment	688,178
For the Agriculture Awareness Program	24,910
For the Governor's Conference on Agriculture expenses	<u>125,000</u>
From Federal and Other Funds	<u>966,636</u>
Total (Not to exceed 24.51 F.T.E.)	\$2,163,938

SECTION 6.040.— To the Department of Agriculture

For the Agriculture Business Development Division

For the "Agri Missouri" Marketing Program

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed

between personal service and expense and equipment
 From General Revenue Fund \$160,801

Expense and Equipment
 From Other Funds 10,000
 Total (Not to exceed 0.97 F.T.E.) \$170,801

SECTION 6.045.— To the Department of Agriculture
 For the Agriculture Business Development Division
 For the Wine and Grape Program

Personal Service \$206,616
 Expense and Equipment 1,622,243
 From Other Funds (Not to exceed 4.00 F.T.E.) \$1,828,859

SECTION 6.050.— To the Department of Agriculture
 For the Agriculture Business Development Division

For the purpose of funding grants for the Adult Agriculture Education Program
 From General Revenue Fund \$200,000

SECTION 6.055.— To the Department of Agriculture
 For the Agriculture Business Development Division
 For the Agriculture and Small Business Development Authority

Personal Service \$106,883
 Expense and Equipment 21,379
 From Single-Purpose Animal Facilities Loan Program Fund (Not to exceed
 3.00 F.T.E.) \$128,262

SECTION 6.060.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the Single-Purpose Animal Facilities Loan
 Guarantee Fund

From General Revenue Fund \$1E

SECTION 6.065.— To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Sections
 348.190, and 348.200, RSMo

From Single-Purpose Animal Facilities Loan Guarantee Fund \$1E

SECTION 6.070.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the Agricultural Product Utilization and
 Business Development Loan Guarantee Fund

From General Revenue Fund \$1E

SECTION 6.075.— To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Sections
 348.403, 348.408, and 348.409, RSMo

From Agricultural Product Utilization and Business Development Loan
 Guarantee Fund \$1E

SECTION 6.080.— To the Department of Agriculture

For the Agriculture Business Development Division

For the Agriculture Development Program	
Personal Service	\$72,577
Expense and Equipment	48,256

For all monies in the Agriculture Development Fund for investments, reinvestments, and for emergency agricultural relief and rehabilitation as provided by law	100,000
From Agriculture Development Fund (Not to exceed 1.60 F.T.E.)	\$220,833

SECTION 6.085.— To the Department of Agriculture

For the Division of Animal Health

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$2,481,131

Personal Service	674,072
Expense and Equipment	915,026E
From Federal Funds	1,589,098

Personal Service	159,240
Expense and Equipment	411,602
From Animal Health Laboratory Fee Fund	570,842

Personal Service	502,539
Expense and Equipment	248,943
From Animal Care Reserve Fund	751,482

To support local efforts to spay and neuter cats and dogs	
From Missouri Pet Spay/Neuter Fund	1E

To support the Livestock Brands Program	
From Livestock Brands Fund	38,151

For enforcement activities related to the Livestock Dealer Law	
From Livestock Dealer Law Enforcement and Administration Fund	12,250

For expenses incurred in regulating Missouri livestock markets	
From Livestock Sales and Markets Fees Fund	32,565

For processing livestock market bankruptcy claims	
From Agriculture Bond Trustee Fund	135,000

For the expenditures of contributions, gifts, and grants in support of relief efforts to reduce the suffering of abandoned animals	
From Institution Gift Trust Fund	5,000
Total (Not to exceed 73.35 F.T.E.)	\$5,615,520

SECTION 6.090.— To the Department of Agriculture

For the Division of Animal Health

For funding indemnity payments and for indemnifying producers and owners
 of livestock and poultry for preventing the spread of disease during

emergencies declared by the State Veterinarian, subject to the approval
by the Department of Agriculture of a state match rate up to 50 percent
From General Revenue Fund \$1E

SECTION 6.095.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund \$800,508

Personal Service 35,021

Expense and Equipment 41,180

From Federal Funds 76,201

Personal Service 1,472,956

Expense and Equipment 282,047

Payment of Federal User Fee 100,000

From Grain Inspection Fees Fund 1,855,003

Personal Service 75,103

Expense and Equipment 22,446

From Commodity Council Merchandising Fund 97,549

Total (Not to exceed 65.25 F.T.E.) \$2,829,261

SECTION 6.100.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

For the Missouri Aquaculture Council

From Aquaculture Marketing Development Fund \$1E

For refunds to individuals and reimbursements to commodity councils

From Commodity Council Merchandising Fund 10,000E

For research, promotion, and market development of apples

From Apple Merchandising Fund 1E

For the Missouri Wine Marketing and Research Council

From Missouri Wine Marketing and Research Development Fund 1E

Total \$10,003

SECTION 6.105.— To the Department of Agriculture

For the Division of Plant Industries

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund \$1,712,220

Personal Service 490,626

Expense and Equipment 785,272

From Federal Funds 1,275,898

Total (Not to exceed 51.56 F.T.E.) \$2,988,118

SECTION 6.110.— To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding gypsy moth control, including education, research, and management activities, and for the receipt and disbursement of funds donated for gypsy moth control, including education, research, and management activities. Projects funded with donations, including those contributions made by supporting agencies and groups outside the Missouri Department of Agriculture, must receive prior approval from a steering committee composed of one member each from the Missouri departments of Agriculture, Conservation, Natural Resources, and Economic Development, the United States Department of Agriculture, the Missouri wood products industry, the University of Missouri, and other groups as deemed necessary by the Gypsy Moth Advisory Council, to be co-chaired by the departments of Agriculture and Conservation

Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment

From Federal and Other Funds (Not to exceed 1.65 F.T.E.) \$101,644

SECTION 6.115.— To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding boll weevil suppression and eradication

Personal Service \$38,216

Expense and Equipment 30,634

From Boll Weevil Suppression and Eradication Fund (Not to exceed 1.00 F.T.E.) . \$68,850

SECTION 6.120.— To the Department of Agriculture

For the Division of Weights and Measures

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$1,160,778

Personal Service 35,946

Expense and Equipment 50,000

From Federal and Other Funds 85,946

Personal Service 1,504,637

Expense and Equipment 771,270

From Petroleum Inspection Fund 2,275,907

Total (Not to exceed 70.11 F.T.E.) \$3,522,631

SECTION 6.125.— To the Department of Agriculture

For the Missouri State Fair

Personal Service

From General Revenue Fund \$513,659

Personal Service 1,424,750

Expense and Equipment 2,726,645

From State Fair Fees Fund 4,151,395

Total (Not to exceed 63.38 F.T.E.) \$4,665,054

SECTION 6.130.— To the Department of Agriculture
For cash to start the Missouri State Fair

Expense and Equipment	
From State Fair Fees Fund	\$75,000
From State Fair Trust Fund	<u>10,000</u>
Total	\$85,000

SECTION 6.135.— To the Department of Agriculture
For the Missouri State Fair
For equipment replacement

Expense and Equipment	
From State Fair Fees Fund	\$166,062

SECTION 6.140.— To the Department of Agriculture
For the Missouri State Fair

For the Aid-to-Fairs Premiums Program for youth participants in county, local, and district fairs	
From Other Funds	\$1E

SECTION 6.145.— To the Department of Agriculture
For the State Milk Board

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$116,597
Personal Service and/or Expense and Equipment	
From Milk Inspection Fees Fund	1,433,859
Expense and Equipment	
From State Contracted Manufacturing Dairy Plant Inspection and Grading Fee Fund	<u>8,000</u>
Total (Not to exceed 11.93 F.T.E.)	\$1,558,456

SECTION 6.200.— To the Department of Natural Resources
For department operations, administration, and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$369,919
Personal Service	3,778,594
Expense and Equipment	<u>1,038,329</u>
From Federal and Other Funds	4,816,923

For Contractual Audits

From Federal and Other Funds	<u>100,000E</u>
Total (Not to exceed 87.19 F.T.E.)	\$5,286,842

SECTION 6.205.— To the Department of Natural Resources
For the Division of Energy

Personal Service	\$2,326,247
----------------------------	-------------

Expense and Equipment	361,061
From Federal and Other Funds (Not to exceed 48.00 F.T.E.)	<u>\$2,687,308</u>

SECTION 6.210. — To the Department of Natural Resources	
For the purpose of funding the promotion of energy, renewable energy, and energy efficiency	
From Utilicare Stabilization Fund	\$100E
From Federal and Other Funds	<u>8,288,921E</u>
Total	<u>\$8,289,021</u>

SECTION 6.215. — To the Department of Natural Resources	
For the Division of Environmental Quality, the Division of Geology and Land Survey, the Division of Energy, and the Water Resources Center, including the Soil and Water Conservation Program	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five (25%) flexibility is allowed between divisions and/or centers listed in this section and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$8,169,603
Personal Service	34,837,619
Expense and Equipment	<u>12,299,489</u>
From Federal and Other Funds	<u>47,137,108</u>
Total (Not to exceed 949.71 F.T.E.)	<u>\$55,306,711</u>

SECTION 6.220. — To the Department of Natural Resources	
There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Water Development Fund	
From General Revenue Fund	\$481,580

SECTION 6.225. — To the Department of Natural Resources	
For the payment of interest, operations, and maintenance in accordance with the Cannon Water Contract	
From Missouri Water Development Fund	\$481,580

SECTION 6.230. — To the Department of Natural Resources	
For demonstration projects and technical assistance related to soil and water conservation	
From Federal Funds	\$100,000
For grants to local soil and water conservation districts	11,680,820E
For soil and water conservation cost-share grants	24,000,000E
For a conservation equipment incentive program	75,000E
For a special area land treatment program	3,600,000E
For grants to colleges and universities for research projects on soil erosion and conservation	<u>75,000E</u>
From Soil and Water Sales Tax Fund	<u>39,430,820</u>
Total	<u>\$39,530,820</u>

SECTION 6.235. — To the Department of Natural Resources	
For state construction grants and loans	

From Federal and Other Funds \$3,000,000E

For loans pursuant to Sections 644.026 through 644.124, RSMo

From Water and Wastewater Loan Fund and/or Water and Wastewater
Loan Revolving Fund 49,000,000E

For rural sewer and water grants and loans

From Water Pollution Control Fund and/or Rural Water and Sewer Loan
Revolving Fund 20,660,000E

For stormwater control grants or loans

From Water Pollution Control Fund, Stormwater Control Fund, and/or
Stormwater Loan Revolving Fund 19,014,141E

For loans for drinking water systems pursuant to Sections 644.026 through
644.124, RSMo

From Water and Wastewater Loan Fund and/or Water and Wastewater
Loan Revolving Fund 14,000,000E

Total \$105,674,141

SECTION 6.240.— To the Department of Natural Resources

For grants and contracts to study or reduce water pollution, improve
ground water and/or surface water quality

From Federal Funds \$9,444,925E

From Natural Resources Protection Fund-Water Pollution Permit Fee
Subaccount 50,000E

For drinking water sampling, analysis, and public drinking water
quality and treatment studies

From Safe Drinking Water Fund 600,000E

Total \$10,094,925

SECTION 6.245.— To the Department of Natural Resources

For closure of concentrated animal feeding operations

From Concentrated Animal Feeding Operation Indemnity Fund \$100,000

SECTION 6.250.— To the Department of Natural Resources

For grants and contracts for air pollution control activities

From Federal and Other Funds \$3,751,934E

For asbestos grants and contracts

From Natural Resources Protection Fund-Air Pollution Asbestos Fee

Subaccount 75,000E

Total \$3,826,934

SECTION 6.255.— To the Department of Natural Resources

For the cleanup of leaking underground storage tanks

From Federal Funds \$420,000

For the cleanup of hazardous waste sites

From Federal and Other Funds 975,000E

From Hazardous Waste Fund 21,274E

From Dry-cleaning Environmental Response Trust Fund	200,000E
Total	<u>\$1,616,274</u>

SECTION 6.260. — To the Department of Natural Resources For implementation provisions of the Solid Waste Management Law in accordance with Sections 260.250 through 260.345, RSMo	
From Solid Waste Management Fund	\$6,300,000E
From Solid Waste Management Fund-Scrap Tire Subaccount	<u>1,250,000E</u>
Total	<u>\$7,550,000</u>

SECTION 6.265. — To the Department of Natural Resources For funding all expenditures of forfeited financial assurance instruments to ensure proper closure and post closure of solid waste landfills, with General Revenue Fund expenditures not to exceed collections pursuant to Section 260.228, RSMo	
From General Revenue Fund	\$17,304E
From Post Closure Fund	<u>141,599E</u>
Total	<u>\$158,903</u>

SECTION 6.270. — To the Department of Natural Resources For the receipt and expenditure of bond forfeiture funds for the reclamation of mined land	
From Mined Land Reclamation Fund	\$1,400,000
For the reclamation of mined lands under the provisions of Section 444.960, RSMo	
From Coal Mine Land Reclamation Fund	850,000
For the reclamation of abandoned mined lands	
From Federal Funds	1,750,000E
For contracts for hydrologic studies to assist small coal operators to meet permit requirements	
From Federal Funds	<u>50,000</u>
Total	<u>\$4,050,000</u>

SECTION 6.275. — To the Department of Natural Resources For contracts for the analysis of hazardous waste samples	
From Federal Funds	\$100,000
From Hazardous Waste Fund	60,210

For the environmental emergency response system	
From Other Funds	30,000E
From Federal Funds	250,000

For emergency response loans in accordance with Section 260.546, RSMo	
From Hazardous Waste Fund	150,000

For cleanup of controlled substances	
From Federal Funds	<u>124,999E</u>
Total	<u>\$715,209</u>

SECTION 6.280.— To the Department of Natural Resources
 For funding environmental education and studies, demonstration projects,
 and technical assistance grants
 From Federal and Other Funds \$125,000E

SECTION 6.285.— To the Department of Natural Resources
 For the Board of Trustees for the Petroleum Storage Tank Insurance Fund
 For the general administration and operation of the fund
 Personal Service \$190,351
 Expense and Equipment 2,101,000

For the purpose of investigating and paying claims obligations of the
 Petroleum Storage Tank Insurance Fund 19,000,000E
 For the purpose of funding the refunds of erroneously collected receipts 10,000E
 From Petroleum Storage Tank Insurance Fund (Not to exceed 2.00 F.T.E.) . . \$21,301,351

SECTION 6.290.— To the Department of Natural Resources
 For petroleum related activities and environmental emergency response
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From Petroleum Storage Tank Insurance Fund (Not to exceed 16.20 F.T.E.) . . \$1,089,688

SECTION 6.295.— To the Department of Natural Resources
 For expenditures in accordance with the provisions of Section 259.190, RSMo
 From Oil and Gas Remedial Fund \$23,000E

SECTION 6.300.— To the Department of Natural Resources
 For the Division of Geology and Land Survey
 For surveying corners and for records restorations
 From Federal and Other Funds \$240,000

SECTION 6.305.— To the Department of Natural Resources
 For the Division of State Parks
 For field operations, administration, and support
 Personal Service \$20,908,855
 Expense and Equipment 11,439,507
 From Federal and Other Funds 32,348,362

For payments to levee districts
 From Parks Sales Tax Fund 1E
 Total (Not to exceed 660.71 F.T.E.) \$32,348,363

SECTION 6.310.— To the Department of Natural Resources
 For the Division of State Parks
 For the Bruce R. Watkins Cultural Heritage Center
 From Parks Sales Tax Fund \$100,000

SECTION 6.315.— To the Department of Natural Resources
 For the Division of State Parks
 For the payment to counties in lieu of real property taxes, as appropriate,
 on lands acquired by the department after July 1, 1985, for park purposes

and not more than the amount of real property tax imposed by political subdivisions at the time acquired, in accordance with the provisions of Section 47(a) of the Constitution of Missouri

From Parks Sales Tax Fund \$25,875E

SECTION 6.320.— To the Department of Natural Resources

For the Division of State Parks

For parks and historic sites

For recoupments and donations that are consistent with current operations and conceptual development plans. The expenditure of any single directed donation of funds greater than \$500,000 requires the notification of the chairperson or designee of both Senate Appropriations and House Budget committees

From State Park Earnings Fund \$72,390E

SECTION 6.325.— To the Department of Natural Resources

For the Division of State Parks

For the purchase of publications, souvenirs, and other items for resale at state parks and state historic sites
Expense and Equipment

From State Park Earnings Fund \$500,000E

SECTION 6.330.— To the Department of Natural Resources

For the Division of State Parks

For all expenses incurred in the operation of state park concession projects or facilities when such operations are assumed by the Department of Natural Resources

From State Park Earnings Fund \$200,000E

SECTION 6.335.— To the Department of Natural Resources

For the Division of State Parks

For the expenditure of grants to state parks

From Federal and Other Funds \$350,000E

SECTION 6.340.— To the Department of Natural Resources

For the Division of State Parks

For Administration and Support

For grants-in-aid from the Land and Water Conservation Fund and other funds to state agencies and political subdivisions for outdoor recreation projects

From Federal Funds \$2,324,034E

SECTION 6.345.— To the Department of Natural Resources

For Historic Preservation Operations

Personal Service \$707,567

Expense and Equipment 107,351

From Federal and Other Funds (Not to exceed 18.25 F.T.E.) \$814,918

SECTION 6.355.— To the Department of Natural Resources

For historic preservation grants and contracts

From Federal and Other Funds \$1,807,243E

SECTION 6.360.— To the Department of Natural Resources
For the purpose of funding Civil War commemoration activities
From Federal and Other Funds \$1E

SECTION 6.365.— To the Department of Natural Resources
For expenditures of payments received for damages to the state's natural resources
From Natural Resources Protection Fund-Damages Subaccount or Natural
Resources Protection Fund-Water Pollution Permit Fee Subaccount \$269,711E

SECTION 6.370.— To the Department of Natural Resources
For incentives related to Jobs Now Projects approved by the Department
of Natural Resources and the Office of Administration
From Federal and Other Funds \$1,000E

SECTION 6.375.— To the Department of Natural Resources
For revolving services
Expense and Equipment
From Natural Resources Revolving Services Fund \$3,126,244

SECTION 6.380.— To the Department of Natural Resources
For the purpose of funding the refund of erroneously collected receipts
From Federal and Other Funds \$250,000E

SECTION 6.385.— To the Department of Natural Resources
For sales tax on retail sales
From Federal and Other Funds \$203,000E

SECTION 6.390.— There is hereby transferred out of the State Treasury
to the Department of Natural Resources Cost Allocation Fund
From Federal and Other Funds \$7,252,714

SECTION 6.395.— There is hereby transferred out of the State Treasury
to the Department of Natural Resources Cost Allocation Fund for real
property leases, related services, utilities, systems furniture, structural
modifications, capital improvements and the related expenses
From Federal and Other Funds \$1,834,121

SECTION 6.400.— There is hereby transferred out of the State Treasury
to the Department of Natural Resources Cost Allocation Fund for the
purpose of funding the consolidation of Information Technology Services
From Federal and Other Funds \$8,456,960

SECTION 6.405.— There is hereby transferred out of the State Treasury to
the OA Information Technology Federal and Other Fund for the purpose
of funding the consolidation of Information Technology Services
From Federal Funds \$2,788,018

SECTION 6.410.— To the Department of Natural Resources
For the State Environmental Improvement and Energy Resources Authority
For all costs incurred in the operation of the authority, including special studies
From State Environmental Improvement Authority Fund \$1E

SECTION 6.600.— To the Department of Conservation

For Personal Service and Expense and Equipment, including refunds;
and for payments to counties for the unimproved value of land in
lieu of property taxes for privately owned lands acquired by the
Conservation Commission after July 1, 1977, and for lands classified
as forest croplands

From Conservation Commission Fund (Not to exceed 1,843.81 F.T.E.) \$145,534,841

DEPARTMENT OF AGRICULTURE TOTALS

General Revenue Fund	\$22,847,496
Federal Funds	4,317,568
Other Funds	<u>14,518,318</u>
Total	\$41,683,382

DEPARTMENT OF NATURAL RESOURCES TOTALS

General Revenue Fund	\$9,038,406
Federal Funds	44,426,749
Other Funds	<u>256,815,232</u>
Total	\$310,280,387

DEPARTMENT OF CONSERVATION TOTALS

Other Funds	\$145,534,841
-----------------------	---------------

Approved June 17, 2010

HB 2007 [CCS SCS HCS HB 2007]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF ECONOMIC DEVELOPMENT; DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS, AND PROFESSIONAL REGISTRATION; AND DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, Financial Institutions and Professional Registration, Department of Labor and Industrial Relations, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011 as follows:

SECTION 7.005.— To the Department of Economic Development
For general administration of Administrative Services

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$471,844
Personal Service	1,108,275
Expense and Equipment	463,035
From Federal Funds	1,571,310
Personal Service	551,787
Expense and Equipment	651,292
For refunds	5,000E
From Department of Economic Development Administrative Fund	1,208,079
Total (Not to exceed 38.31 F.T.E.)	\$3,251,233

SECTION 7.010.— To the Department of Economic Development

Funds are to be transferred, for payment of administrative costs, to the Department of Economic Development Administrative Fund	
From Federal Funds	\$247,990E
From Division of Tourism Supplemental Revenue Fund	159,347E
From Manufactured Housing Fund	11,065E
From Public Service Commission Fund	208,224E
From Missouri Arts Council Trust Fund	40,315
Total	\$666,941

SECTION 7.020.— To the Department of Economic Development

For the Division of Business and Community Services

For the Missouri Economic Research and Information Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent (50%) flexibility is allowed between teams	
From General Revenue Fund	\$168,721
From Federal Funds	1,744,163

For the Marketing Team

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent (50%) flexibility is allowed between teams	
From General Revenue Fund	304,086
From Federal Funds	184,838
From Department of Economic Development Administrative Fund	42,680
From International Promotions Revolving Fund	72,238E
From Economic Development Advancement Fund	464,721

For the Sales Team

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent (50%) flexibility is allowed between teams	
From General Revenue Fund	913,211

From Federal Funds	106,498
From Department of Economic Development Administrative Fund	6,620
From Economic Development Advancement Fund	386,324

For the Finance Team

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent (50%) flexibility is allowed between teams

From Federal Funds	321,402
From Economic Development Advancement Fund	827,378

For the Compliance Team

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent (50%) flexibility is allowed between teams

From General Revenue Fund	90,259
From Federal Funds	779,096
From Economic Development Advancement Fund	84,713

For refunding any overpayment or erroneous payment of any amount that is credited to the Economic Development Advancement Fund

From Economic Development Advancement Fund	1E
Total (Not to exceed 111.34 F.T.E.)	\$6,496,949

SECTION 7.021.— To the Department of Economic Development

For the Division of Business and Community Services

For International Trade and Investment Offices

From Economic Development Advancement Fund	\$650,000
--------------------------------------------------	-----------

SECTION 7.022.— To the Department of Economic Development

For the Division of Business and Community Services

For the Missouri Partnership

From Economic Development Advancement Fund	\$2,250,000
--------------------------------------------------	-------------

SECTION 7.030.— To the Department of Economic Development

For the Missouri Technology Corporation, provided that all funds appropriated to the Missouri Technology Corporation by the General Assembly shall be subject to the provisions of Section 196.1127, RSMo, for administration and for science and technology development, including, but not limited to, innovation centers, Missouri Manufacturing Extension Partnership, and Missouri Federal and State Technology Partnership Program. The Missouri Technology Corporation shall provide a semi-annual report no later than December 31, 2010 and June 30, 2011 to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee containing, at a minimum, a description of each grant awarded, the amount of the grant, benchmarks established and obtained, jobs created, indirect jobs created and other funds leveraged as a result of the grant

From Missouri Technology Investment Fund	\$1,700,000
------------------------------------------------	-------------

From Federal Funds	1E
From Private Contributions	1E

For an entrepreneurship training program. The Missouri Technology Corporation shall provide a progress report on a quarterly basis starting no later than September 30, 2010, and every quarter during the period of July 1, 2010 to June 30, 2011 to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee containing at a minimum, the number of individuals enrolled in the program, the type of technology explored for commercialization, technology commercialized and companies created, direct jobs created, indirect jobs created, and company funding raised

From Economic Development Advancement Fund	500,000
Total	\$2,200,002

SECTION 7.035.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Technology Investment Fund, for Innovation Centers, Missouri Manufacturing Extension Partnership, Missouri Technology Corporation, Missouri Federal and State Technology Partnership Program, and other science and technology development. All appropriations from the Missouri Technology Investment Fund shall be subject to the provisions of Section 196.1127, RSMo

From General Revenue Fund	\$1,700,000
-------------------------------------	-------------

SECTION 7.040.— To the Department of Economic Development
For the Division of Business and Community Services
For Community Development Programs

From Federal Funds	\$28,000,000E
------------------------------	---------------

SECTION 7.045.— To the Department of Economic Development
For the Division of Business and Community Services
For the Missouri Main Street Program

From Missouri Main Street Program Fund	\$43,204
--------------------------------------------------	----------

SECTION 7.050.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Main Street Program Fund

From General Revenue Fund	\$42,614
-------------------------------------	----------

SECTION 7.055.— To the Department of Economic Development
For the Division of Business and Community Services
For the Youth Opportunities and Violence Prevention Program

From Youth Opportunities and Violence Prevention Fund	\$1E
-----------------------------------------------------------------	------

SECTION 7.060.— To the Department of Economic Development
For the Division of Business and Community Services
For the Delta Regional Authority, provided that funds may be expended only if federal funds are appropriated to the authority pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.)

From General Revenue Fund	\$76,501
-------------------------------------	----------

SECTION 7.065.— To the Department of Economic Development
 For Missouri supplemental tax increment financing as provided in Section
 99.845, RSMo. This appropriation may be used for the following
 projects: Kansas City Midtown, Independence Santa Fe Trail
 Neighborhood, St. Louis City Convention Hotel, Cupples Station,
 Springfield Jordan Valley Park, Kansas City Bannister Mall/Three
 Trails, St. Louis Lambert Airport Eastern Perimeter, Old Post Office
 in Kansas City, 1200 Main Garage Project in Kansas City, Riverside
 Levee, Branson Landing, Eastern Jackson County Bass Pro, and
 Kansas City East Village Project. The presence of a project in this list is
 not an indication said project is nor shall be approved for tax increment
 financing. A listed project must have completed the application process
 and a certificate of approval must have been issued pursuant to Section
 99.845 (10) RSMo, before a project may be disbursed funds subject to
 the appropriation

From Missouri Supplemental Tax Increment Financing Fund \$8,724,027

SECTION 7.070.— Funds are to be transferred out of the State Treasury,
 chargeable to the General Revenue Fund, to the Missouri Supplemental
 Tax Increment Financing Fund

From General Revenue Fund \$8,724,027

SECTION 7.075.— To the Department of Economic Development
 For the Missouri Downtown Economic Stimulus Act as provided in Sections
 99.915 to 99.980, RSMo

From State Supplemental Downtown Development Fund \$1,240,450

SECTION 7.080.— To the Department of Economic Development
 For the Downtown Revitalization Preservation Program as provided in Sections
 99.1080 to 99.1092, RSMo

From Downtown Revitalization Preservation Fund \$150,000

SECTION 7.085.— To the Department of Economic Development
 For the Missouri Rural Economic Stimulus Act as provided in Sections
 99.1000 to 99.1060, RSMo

From State Supplemental Rural Development Fund \$1E

SECTION 7.090.— Funds are to be transferred out of the State Treasury,
 chargeable to the State Supplemental Downtown Development Fund,
 to the General Revenue Fund

From State Supplemental Downtown Development Fund \$1E

SECTION 7.095.— Funds are to be transferred out of the State Treasury,
 chargeable to the State Supplemental Rural Development Fund, to the
 General Revenue Fund

From State Supplemental Rural Development Fund \$1E

SECTION 7.100.— To the Department of Economic Development
 For the Division of Business and Community Services
 For the Missouri Community Service Commission
 Personal Service

From General Revenue Fund \$33,019

Personal Service	188,163
Expense and Equipment	<u>2,793,562E</u>
From Federal Funds	<u>2,981,725</u>
Total (Not to exceed 5.00 F.T.E.)	\$3,014,744

SECTION 7.105.— To the Department of Economic Development

For the Missouri State Council on the Arts

Personal Service	\$293,187
Expense and Equipment	<u>635,014</u>
From Federal Funds	<u>928,201</u>

Personal Service	462,100
Expense and Equipment	<u>8,558,414</u>
From Missouri Arts Council Trust Fund	<u>9,020,514</u>

For Public Television Grants

For grants to public television and radio stations as provided in Section

143.183, RSMo

From Missouri Public Broadcasting Corporation Special Fund	500,000
------------------------------------------------------------------	---------

For the Missouri Humanities Council

From Missouri Humanities Council Trust Fund	<u>250,000</u>
---------------------------------------------------	----------------

Total (Not to exceed 15.00 F.T.E.)	\$10,698,715
------------------------------------------	--------------

SECTION 7.125.— To the Department of Economic Development

For the Division of Workforce Development

For general administration of Workforce Development activities

Personal Service	\$21,397,398E
Expense and Equipment	<u>3,031,524E</u>
From Federal Funds	<u>24,428,922</u>

Personal Service	371,707
Expense and Equipment	<u>81,389</u>
From Missouri Job Development Fund	<u>453,096</u>

For the Hero at Home Program

From Hero at Home Fund	315,000
------------------------------	---------

For the purpose of providing research funding to create an innovative model

for specific persons with autism through a contract with a Southeast

Missouri not-for-profit organization concentrating on workforce

transition skills related to the maximization of giftedness within the

autistic population

From General Revenue Fund	<u>200,000</u>
---------------------------------	----------------

Total (Not to exceed 539.72 F.T.E.)	\$25,397,018
-------------------------------------------	--------------

SECTION 7.130.— Funds are to be transferred out of the State Treasury,
chargeable to Federal Funds, to the Hero at Home Fund

From Federal Funds	\$315,000
--------------------------	-----------

SECTION 7.135.— To the Department of Economic Development

For job training and related activities

From General Revenue Fund	\$1,873,994
From Federal Funds	96,024,374

For administration of programs authorized and funded by the United States
Department of Labor, such as Trade Adjustment Assistance (TAA), and
provided that all funds shall be expended from discrete accounts and that
no monies shall be expended for funding administration of these programs
by the Division of Workforce Development

From Federal Funds	<u>7,000,000E</u>
Total	\$104,898,368

SECTION 7.140.— To the Department of Economic Development
For funding new and expanding industry training programs and basic
industry retraining programs

From Missouri Job Development Fund	\$9,502,235E
------------------------------------------	--------------

SECTION 7.145.— Funds are to be transferred out of the State Treasury,
chargeable to the General Revenue Fund, to the Missouri Job
Development Fund

From General Revenue Fund	\$9,945,339
---------------------------------	-------------

SECTION 7.150.— To the Department of Economic Development
For the Missouri Community College New Jobs Training Program
For funding training of workers by community college districts

From Missouri Community College Job Training Program Fund	\$16,000,000E
-----------------------------------------------------------------	---------------

SECTION 7.155.— To the Department of Economic Development
For the Jobs Retention Program

From Missouri Community College Job Retention Training Program Fund ..	\$10,000,000
------------------------------------------------------------------------	--------------

SECTION 7.160.— To the Department of Economic Development
For the Missouri Women's Council

Personal Service	\$55,167
Expense and Equipment	<u>16,502</u>
From Federal Funds (Not to exceed 1.00 F.T.E.)	\$71,669

SECTION 7.165.— To the Department of Economic Development
For the Division of Tourism to include coordination of advertising of
at least \$70,000 for the Missouri State Fair

Personal Service	\$1,614,386
Expense and Equipment	<u>12,293,346</u>
From Division of Tourism Supplemental Revenue Fund	13,907,732

Expense and Equipment	
From Tourism Marketing Fund	<u>15,000</u>
Total (Not to exceed 41.00 F.T.E.)	\$13,922,732

SECTION 7.170.— Funds are to be transferred out of the State Treasury,
chargeable to the General Revenue Fund, to the Division of
Tourism Supplemental Revenue Fund

From General Revenue Fund	\$13,422,576
---------------------------------	--------------

SECTION 7.175.— To the Department of Economic Development
For the Office of the Film Commission

Personal Service and/or Expense and Equipment
From General Revenue Fund (Not to exceed 2.00 F.T.E.) \$207,874

SECTION 7.180.— To the Department of Economic Development
For the Missouri Housing Development Commission

For general administration of affordable housing activities
For funding housing subsidy grants or loans
From Missouri Housing Trust Fund \$4,450,000E

SECTION 7.185.— To the Department of Economic Development
For Manufactured Housing

Personal Service \$341,404
Expense and Equipment 179,123
For Manufactured Housing programs 7,935E
For refunds 10,000E
From Manufactured Housing Fund 538,462

For Manufactured Housing to pay consumer claims

From Manufactured Housing Consumer Recovery Fund 192,000
Total (Not to exceed 8.00 F.T.E.) \$730,462

SECTION 7.190.— To the Department of Economic Development

Funds are to be transferred out of the State Treasury, chargeable
to the Manufactured Housing Fund, to the Manufactured Housing
Consumer Recovery Fund

From Manufactured Housing Fund \$192,000

SECTION 7.195.— To the Department of Economic Development

For the Office of the Public Counsel

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund (Not to exceed 12.00 F.T.E.) \$708,744

SECTION 7.200.— To the Department of Economic Development

For the Public Service Commission

For general administration of Utility Regulation activities

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment \$13,014,145

For refunds 10,000E
From Public Service Commission Fund 13,024,145

For the Deaf Relay Service and Equipment Distribution Program

From Deaf Relay Service and Equipment Distribution Program Fund 2,500,000
Total (Not to exceed 194.00 F.T.E.) \$15,524,145

SECTION 7.400.— To the Department of Insurance, Financial Institutions
and Professional Registration

Personal Service \$153,121

Expense and Equipment	<u>42,157</u>
From Department of Insurance, Financial Institutions and Professional Registration Administrative Fund (Not to exceed 5.00 F.T.E.)	\$195,278

SECTION 7.405.— To the Department of Insurance, Financial Institutions
and Professional Registration
Funds are to be transferred for administrative services to the Department
of Insurance, Financial Institutions and Professional Registration
Administrative Fund

From Division of Credit Unions Fund	\$11,829E
From Division of Finance Fund	73,314E
From Insurance Dedicated Fund	1E
From Professional Registration Fees Fund	<u>172,007E</u>
Total	\$257,151

SECTION 7.411.— To the Department of Insurance, Financial Registration and
Professional Registration

For the purpose of funding programs on patient safety or consumer outreach
and education to prevent adverse medical results

From Federal Funds	\$1,000,000
--------------------------	-------------

SECTION 7.415.— To the Department of Insurance, Financial Institutions and
Professional Registration

For Insurance Operations

Personal Service	\$6,964,725
Expense and Equipment	<u>1,955,711</u>
From Insurance Dedicated Fund	8,920,436

For consumer restitution payments

From Consumer Restitution Fund	<u>1E</u>
Total (Not to exceed 156.00 F.T.E.)	\$8,920,437

SECTION 7.420.— To the Department of Insurance, Financial Institutions and
Professional Registration

For market conduct and financial examinations of insurance companies

Personal Service	\$3,418,090
Expense and Equipment	<u>801,776</u>
From Insurance Examiners Fund (Not to exceed 44.50 F.T.E.)	\$4,219,866

SECTION 7.425.— To the Department of Insurance, Financial Institutions and
Professional Registration

For refunds

From Insurance Examiners Fund	\$1E
From Insurance Dedicated Fund	<u>75,000E</u>
Total	\$75,001

SECTION 7.430.— To the Department of Insurance, Financial Institutions and
Professional Registration

For the purpose of funding programs providing counseling on health insurance
coverage and benefits to Medicare beneficiaries

From Federal Funds	\$700,000E
--------------------------	------------

From Insurance Dedicated Fund	200,000
Total	<u>\$900,000</u>

SECTION 7.435.— To the Department of Insurance, Financial Institutions and Professional Registration

For the Division of Credit Unions

Personal Service	\$1,126,071
Expense and Equipment	<u>123,775</u>
From Division of Credit Unions Fund (Not to exceed 15.50 F.T.E.)	\$1,249,846

SECTION 7.440.— To the Department of Insurance, Financial Institutions and Professional Registration

For the Division of Finance

Personal Service	\$6,216,626
Expense and Equipment	819,918
For Out-of-State Examinations	<u>50,000E</u>
From Division of Finance Fund (Not to exceed 106.15 F.T.E.)	\$7,086,544

SECTION 7.445.— Funds are to be transferred out of the Division of Savings and Loan Supervision Fund, to the Division of Finance Fund, for the purpose of supervising state chartered savings and loan associations

From Division of Savings and Loan Supervision Fund	\$39,400E
----------------------------------------------------------	-----------

SECTION 7.450.— Funds are to be transferred out of the Residential Mortgage Licensing Fund, to the Division of Finance Fund, for the purpose of administering the Residential Mortgage Licensing Law

From Residential Mortgage Licensing Fund	\$150,000E
------------------------------------------------	------------

SECTION 7.455.— Funds are to be transferred out of the Division of Savings and Loan Supervision Fund, to the General Revenue Fund, in accordance with Section 369.324, RSMo

From Division of Savings and Loan Supervision Fund	\$6,909E
----------------------------------------------------------	----------

SECTION 7.460.— Funds are to be transferred out of the Division of Finance Fund, to the General Revenue Fund, in accordance with Section 361.170, RSMo

From Division of Finance Fund	\$500,000E
-------------------------------------	------------

SECTION 7.465.— To the Department of Insurance, Financial Institutions and Professional Registration

For general administration of the Division of Professional Registration

Personal Service	\$3,334,640
Expense and Equipment	1,056,552
For examination and other fees	88,000E
For refunds	<u>35,000E</u>
From Professional Registration Fees Fund (Not to exceed 87.50 F.T.E.)	\$4,514,192

SECTION 7.470.— To the Department of Insurance, Financial Institutions and Professional Registration

For the State Board of Accountancy

Personal Service	\$278,953
Expense and Equipment	<u>180,647</u>

From Board of Accountancy Fund (Not to exceed 7.00 F.T.E.) \$459,600

SECTION 7.475.— To the Department of Insurance, Financial Institutions and Professional Registration

For the State Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects

Personal Service \$375,856

Expense and Equipment 331,587

From Board of Architects, Professional Engineers, Land Surveyors, and

Landscape Architects Fund (Not to exceed 10.00 F.T.E.) \$707,443

SECTION 7.480.— To the Department of Insurance, Financial Institutions and Professional Registration

For the State Board of Chiropractic Examiners

Expense and Equipment

From Board of Chiropractic Examiners Fund \$149,567

SECTION 7.485.— To the Department of Insurance, Financial Institutions and Professional Registration

For the State Board of Cosmetology and Barber Examiners

Expense and Equipment \$291,273

For criminal history checks 1,000E

From Board of Cosmetology and Barber Examiners Fund \$292,273

SECTION 7.490.— To the Department of Insurance, Financial Institutions and Professional Registration

For the Missouri Dental Board

Personal Service \$372,146

Expense and Equipment 262,863

From Dental Board Fund (Not to exceed 8.50 F.T.E.) \$635,009

SECTION 7.495.— To the Department of Insurance, Financial Institutions and Professional Registration

For the State Board of Embalmers and Funeral Directors

Expense and Equipment

From Board of Embalmers and Funeral Directors Fund \$568,844

SECTION 7.500.— To the Department of Insurance, Financial Institutions and Professional Registration

For the State Board of Registration for the Healing Arts

Personal Service \$1,722,115

Expense and Equipment 759,494

From Board of Registration for Healing Arts Fund (Not to exceed 43.00 F.T.E.) \$2,481,609

SECTION 7.505.— To the Department of Insurance, Financial Institutions and Professional Registration

For the State Board of Nursing

Personal Service \$1,035,738

Expense and Equipment 752,496

From Board of Nursing Fund (Not to exceed 28.00 F.T.E.) \$1,788,234

SECTION 7.510.— To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Optometry
Expense and Equipment
From Board of Optometry Fund \$42,043

SECTION 7.515.— To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Pharmacy
Personal Service \$940,068
Expense and Equipment 672,948
For criminal history checks 5,000E
From Board of Pharmacy Fund (Not to exceed 14.00 F.T.E.) \$1,618,016

SECTION 7.520.— To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Podiatric Medicine
Expense and Equipment
From Board of Podiatric Medicine Fund \$20,669

SECTION 7.525.— To the Department of Insurance, Financial Institutions and Professional Registration
For the Missouri Real Estate Commission
Personal Service \$897,447
Expense and Equipment 287,544
For criminal history checks 30,000E
From Missouri Real Estate Commission Fund (Not to exceed 25.00 F.T.E.) . . \$1,214,991

SECTION 7.530.— To the Department of Insurance, Financial Institutions and Professional Registration
For the Missouri Veterinary Medical Board
Expense and Equipment \$69,579
For payment of fees for testing services 40,000E
From Veterinary Medical Board Fund \$109,579

SECTION 7.535.— To the Department of Insurance, Financial Institutions and Professional Registration
For funding transfer of funds to the General Revenue Fund
From Board of Accountancy Fund \$28,000E
From Board of Architects, Professional Engineers, Land Surveyors and Landscape Architects Fund 122,100E
From Athletic Fund 14,400E
From Board of Chiropractic Examiners Fund 8,000E
From Licensed Social Workers Fund 9,064E
From Committee of Professional Counselors Fund 15,000E
From Dental Board Fund 31,200E
From Dietitian Fund 1,200E
From Board of Embalmers and Funeral Directors Fund 85,000E
From Endowed Care Cemetery Audit Fund 9,100E
From Board of Geologist Registration Fund 7,200E
From Board of Registration for Healing Arts Fund 190,000E
From Hearing Instrument Specialist Fund 7,700E

From Interior Designer Council Fund	1,200E
From Marital and Family Therapists' Fund	2,200E
From Board of Nursing Fund	135,000E
From Missouri Board of Occupational Therapy Fund	8,960E
From Board of Optometry Fund	13,408E
From Board of Pharmacy Fund	119,000E
From Board of Podiatric Medicine Fund	7,700E
From State Committee of Psychologists Fund	26,000E
From Real Estate Appraisers Fund	51,000E
From Respiratory Care Practitioners Fund	6,250E
From State Committee of Interpreters Fund	7,800E
From Missouri Real Estate Commission Fund	150,000E
From Veterinary Medical Board Fund	22,200E
From Board of Private Investigator Examiners Fund	1E
From Tattoo Fund	5,047E
From Acupuncturist Fund	3,000E
From Massage Therapy Fund	5,200E
From Athletic Agent Fund	1E
From Board of Cosmetology and Barber Examiners Fund	91,250E
Total	\$1,183,181

SECTION 7.540.— To the Department of Insurance, Financial Institutions and Professional Registration

Funds are to be transferred, for payment of operating expenses, the following amounts to the Professional Registration Fees Fund

From Board of Accountancy Fund	\$133,938E
From Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund	278,472E
From Athletic Fund	189,295E
From Board of Chiropractic Examiners Fund	133,850E
From Licensed Social Workers Fund	214,657E
From Committee of Professional Counselors Fund	283,797E
From Dental Board Fund	69,800E
From Dietitian Fund	56,348E
From Board of Embalmers and Funeral Directors Fund	363,579E
From Endowed Care Cemetery Audit Fund	122,879E
From Board of Geologist Registration Fund	71,215E
From Board of Registration for Healing Arts Fund	430,439E
From Hearing Instrument Specialist Fund	88,470E
From Interior Designer Council Fund	42,037E
From Marital and Family Therapists' Fund	17,211E
From Board of Nursing Fund	1,104,260E
From Missouri Board of Occupational Therapy Fund	138,152E
From Board of Optometry Fund	79,961E
From Board of Pharmacy Fund	274,379E
From Board of Podiatric Medicine Fund	27,269E
From State Committee of Psychologists Fund	348,058E
From Real Estate Appraisers Fund	419,574E
From Respiratory Care Practitioners Fund	137,692E
From State Committee of Interpreters Fund	48,475E
From Missouri Real Estate Commission Fund	540,206E
From Veterinary Medical Board Fund	171,129E

From Tattoo Fund	51,460E
From Acupuncturist Fund	8,298E
From Massage Therapy Fund	146,278E
From Athletic Agent Fund	888E
From Board of Cosmetology and Barber Examiners Fund	1,622,527E
From Board of Private Investigator Examiners Fund	<u>1E</u>
Total	\$7,614,594

SECTION 7.545.— Funds are to be transferred, for funding new licensing activity pursuant to Section 620.106, RSMo, the following amounts to the Professional Registration Fees Fund

From any board funds \$1E

SECTION 7.550.— Funds are to be transferred, for the reimbursement of funds loaned for new licensing activity pursuant to Section 620.106, RSMo, the following amount to the appropriate board fund

From Professional Registration Fees Fund \$1E

SECTION 7.800.— To the Department of Labor and Industrial Relations
For the Director and Staff

Personal Service	\$1E
Expense and Equipment	<u>1,764,700E</u>
From Unemployment Compensation Administration Fund	1,764,701

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From Department of Labor and Industrial Relations Administrative Fund	<u>4,010,802</u>
Total (Not to exceed 49.90 F.T.E.)	\$5,775,503

SECTION 7.805.— Funds are to be transferred, for payment of administrative costs, the following amounts to the Department of Labor and Industrial Relations
Administrative Fund

From General Revenue	\$237,433
From Federal Funds	47,019E
From Unemployment Compensation Administration Fund	3,864,264E
From Workers' Compensation Fund	948,223E
From Special Employment Security Fund	<u>100,000</u>
Total	\$5,196,939

SECTION 7.810.— Funds are to be transferred, for payment of administrative costs, charged by the Office of Administration to the Department of Labor and Industrial Relations Administrative Fund

From General Revenue	\$154,010
From Federal Funds	4,307,572
From Workers' Compensation Fund	<u>1,107,603</u>
Total	\$5,569,185

SECTION 7.815.— To the Department of Labor and Industrial Relations
For the Labor and Industrial Relations Commission

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between

personal service and expense and equipment
From General Revenue Fund \$12,180

Personal Service 374,326
Expense and Equipment 58,620
From Unemployment Compensation Administration Fund 432,946

Personal Service 469,423
Expense and Equipment 73,513
From Workers' Compensation Fund 542,936
Total (Not to exceed 14.00 F.T.E.) \$988,062

SECTION 7.820.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For Administration

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment
From General Revenue Fund \$891,989

Personal Service 1E
Expense and Equipment 32,670
From Federal Funds 32,671

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment
From Workers' Compensation Fund 281,066

Expense and Equipment
From Child Labor Enforcement Fund 185,000
Total (Not to exceed 22.00 F.T.E.) \$1,390,726

SECTION 7.825.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For safety and health programs

Personal Service \$679,471E
Expense and Equipment 290,893E
From Federal Funds 970,364

Personal Service and/or Expense and Equipment, provided that not
more than fifty percent (50%) flexibility is allowed between personal
service and expense and equipment
From Workers' Compensation Fund 68,636
Total (Not to exceed 16.00 F.T.E.) \$1,039,000

SECTION 7.830.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For mine safety and health training programs

Personal Service 205,726E
Expense and Equipment 165,081E
From Federal Funds 370,807

Personal Service and/or Expense and Equipment	
From Workers' Compensation Fund	\$54,358
Total (Not to exceed 5.00 F.T.E.)	\$425,165

SECTION 7.835.— To the Department of Labor and Industrial Relations
For the State Board of Mediation

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund (Not to exceed 2.00 F.T.E.)	\$119,976

***SECTION 7.840.**— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For the purpose of funding Administration

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	\$9,321,650
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------

Funds are to be transferred from the Workers' Compensation Fund to the Kids' Chance Scholarship Fund	50,000
From Workers' Compensation Fund	9,371,650

Expense and Equipment	
From Tort Victims Compensation Fund	5,000
Total (Not to exceed 152.25 F.T.E.)	\$9,376,650

*I hereby veto \$295,287 Workers' Compensation Fund for three administrative law judges. The Division of Workers' Compensation is statutorily authorized a maximum of forty administrative law judges. Pursuant to Section 287.610.1, RSMo, the actual number of administrative law judges is determined through the appropriations process and "shall be based upon necessity..." Between 2005 and 2009, the division realized a 25% reduction in first reports of injury and a 28% decrease in the number of claims filed. As a result, the fiscal year 2010 budget eliminated five administrative law judge positions. My budget recommendations for fiscal year 2011 did not add any administrative law judge positions and, given the reduction in claims, a veto will not impact the department's ability to adjudicate workers' compensation cases.

Personal Services and/or Expense and Equipment by \$295,287 from \$9,321,650 to \$9,026,363
Workers' Compensation Fund.
From \$9,371,650 to \$9,076,363 Workers' Compensation Fund.
From \$9,376,650 to \$9,081,363 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 7.845.— For refunds for overpayment or erroneous payment of any
tax or any payment credited to the Workers' Compensation Fund
From Workers' Compensation Fund

	\$50,000E
--	-----------

SECTION 7.850.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation

For payment of special claims	
From Workers' Compensation - Second Injury Fund	\$47,359,511

SECTION 7.855.— To the Department of Labor and Industrial Relations
 For the Division of Workers' Compensation
 For refunds for overpayment of any tax or any payment credited to the
 Workers' Compensation - Second Injury Fund
 From Workers' Compensation - Second Injury Fund \$250,000E

SECTION 7.860.— To the Department of Labor and Industrial Relations
 For the Line of Duty Compensation Program as provided in Section
 287.243, RSMo
 From Line of Duty Compensation Fund \$1E

SECTION 7.865.— Funds are to be transferred out of the State Treasury,
 chargeable to the General Revenue Fund, to the Line of Duty
 Compensation Fund
 From General Revenue Fund \$1E

SECTION 7.870.— To the Department of Labor and Industrial Relations
 For the Division of Workers' Compensation
 For payments of claims to tort victims
 From Tort Victims Compensation Fund \$100,000E

SECTION 7.875.— Funds are to be transferred pursuant to Section 537.675,
 RSMo, to the Basic Civil Legal Services Fund
 From Tort Victims Compensation Fund \$50,000E

SECTION 7.880.— To the Department of Labor and Industrial Relations
 For the Division of Employment Security
 Personal Service \$22,761,140E
 Expense and Equipment 5,342,111E
 From Unemployment Compensation Administration Fund 28,103,251

 Personal Service
 From Unemployment Automation Fund 200,000
 Total (Not to exceed 521.00 F.T.E.) \$28,303,251

SECTION 7.885.— To the Department of Labor and Industrial Relations
 For the Division of Employment Security
 For administration of programs authorized and funded by the United States
 Department of Labor, such as Disaster Unemployment Assistance (DUA),
 and provided that all funds shall be expended from discrete accounts and
 that no monies shall be expended for funding administration of these
 programs by the Division of Employment Security
 From Unemployment Compensation Administration Fund \$7,000,000E

SECTION 7.890.— To the Department of Labor and Industrial Relations
 For the Division of Employment Security
 Personal Service \$504,509
 Expense and Equipment 1,885,358E
 For interest payments 1E
 From Special Employment Security Fund (Not to exceed 14.71 F.T.E.) \$2,389,868

SECTION 7.895.— To the Department of Labor and Industrial Relations
For the Division of Employment Security
For the War on Terror Unemployment Compensation Program

Expense and Equipment	\$45,000
For payment of benefits	<u>45,000E</u>
From War on Terror Unemployment Compensation Fund	\$90,000

SECTION 7.900.— To the Department of Labor and Industrial Relations
For the Division of Employment Security

From Special Employment Security - Bond Proceeds Fund	\$1E
-------------------------------------------------------------	------

SECTION 7.905.— To the Department of Labor and Industrial Relations
For the Division of Employment Security

For the payment of refunds set-off against debts as required by Section 143.786, RSMo	
From Debt Offset Escrow Fund	\$3,250,000E

SECTION 7.910.— To the Department of Labor and Industrial Relations
For the Missouri Commission on Human Rights

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$566,834
Personal Service	895,097E
Expense and Equipment	<u>161,866E</u>
From Human Rights Commission Fund	<u>1,056,963</u>
Total (Not to exceed 34.00 F.T.E.)	\$1,623,797

DEPARTMENT OF ECONOMIC DEVELOPMENT TOTALS

General Revenue Fund	\$38,882,809
Federal Funds	164,142,199
Other Funds	<u>53,752,363</u>
Total	\$256,777,371

DEPARTMENT OF INSURANCE TOTALS

Federal Funds	\$1,700,000
Other Funds	<u>36,439,040</u>
Total	\$38,139,040

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TOTALS

General Revenue Fund	\$1,982,423
Federal Funds	47,950,558
Other Funds	<u>62,803,852</u>
Total	\$112,736,833

Approved June 17, 2010

HB 2008 [CCS SCS HCS HB 2008]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF PUBLIC SAFETY.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Public Safety and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2010 and ending June 30, 2011, as follows:

SECTION 8.005.— To the Department of Public Safety

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$992,763
From Federal Funds	39,477,899E
From Services to Victims Fund	28,098E
From Crime Victims' Compensation Fund	1,939,713E

Expense and Equipment

From Missouri Crime Prevention Information and Programming Fund	50,000E
From Antiterrorism Fund	5,000E
Total (Not to exceed 49.00 F.T.E.)	\$42,493,473

SECTION 8.010.— To the Department of Public Safety

For the Office of the Director

For the Juvenile Justice Delinquency Prevention Program

From Federal Funds	\$1,032,450E
--------------------------	--------------

SECTION 8.015.— To the Department of Public Safety

For the Office of the Director

For the Juvenile Accountability Incentive Block Grant Program

From Federal Funds	\$1,013,625E
--------------------------	--------------

SECTION 8.020.— To the Department of Public Safety

For the Office of the Director

For the Narcotics Control Assistance Program and multi-jurisdictional task forces

From Federal Funds	\$7,000,000E
--------------------------	--------------

SECTION 8.025.— To the Department of Public Safety

For the Office of the Director

For the Program 1122

For the purchase of counter-drug equipment through federal procurement
channels by state and local law enforcement

From Program 1122 Fund \$500,000E

SECTION 8.030.— To the Department of Public Safety

For the Office of the Director

For the Services to Victims Program

From Services to Victims Fund \$4,950,000E

For counseling and other support services for crime victims

From Crime Victims' Compensation Fund 50,000Total \$5,000,000**SECTION 8.035.**— To the Department of Public Safety

For the Office of the Director

For the Victims of Crime Program

From Federal Funds \$7,500,000E

SECTION 8.040.— To the Department of Public Safety

For the Office of the Director

For the Violence Against Women Program

From Federal Funds \$2,499,500E

SECTION 8.045.— To the Department of Public Safety

For the Office of the Director

For the Crime Victims' Compensation Program

From General Revenue Fund \$800,000

From Federal Funds 2,212,671E

From Crime Victims' Compensation Fund 6,987,329ETotal \$10,000,000**SECTION 8.050.**— To the Department of Public Safety

For the National Forensic Sciences Improvement Act Program

From Federal Funds \$197,287E

SECTION 8.055.— To the Department of Public Safety

For the State Forensic Laboratory Program

From State Forensic Laboratory Fund \$300,000E

SECTION 8.060.— To the Department of Public Safety

For the Office of the Director

For the Residential Substance Abuse Treatment Program

From Federal Funds \$250,000E

SECTION 8.065.— To the Department of Public Safety

For the Office of the Director

For peace officer training

From Peace Officer Standards and Training Commission Fund \$1,400,000E

SECTION 8.070.— To the Department of Public Safety
 For the Missouri Public Safety Officer Medal of Valor Act
 From General Revenue Fund \$625

SECTION 8.075.— To the Department of Public Safety
 For the Capitol Police
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund (Not to exceed 32.00 F.T.E.) \$1,316,051

SECTION 8.080.— To the Department of Public Safety
 For the State Highway Patrol
 For Administration
 Personal Service \$15,237
 Expense and Equipment 3,847
 From General Revenue Fund 19,084

For the High-Intensity Drug Trafficking Area Program
 From Federal Funds 1,500,000E

 Personal Service 5,331,590
 Expense and Equipment 430,812
 From State Highways and Transportation Department Fund 5,762,402

 Personal Service
 From Criminal Record System Fund 40,110

 Personal Service 32,703
 Expense and Equipment 4,865
 From Gaming Commission Fund 37,568
 Total (Not to exceed 105.00 F.T.E.) \$7,359,164

SECTION 8.085.— To the Department of Public Safety
 For the State Highway Patrol
 For fringe benefits, including retirement contributions for members of the
 Missouri Department of Transportation and Highway Patrol Employees'
 Retirement System, and insurance premiums
 Personal Service \$6,412,924E
 Expense and Equipment 798,841E
 From General Revenue Fund 7,211,765

 Personal Service 1,787,188E
 Expense and Equipment 115,037E
 From Federal Funds 1,902,225

 Personal Service 143,423E
 Expense and Equipment 14,028E
 From Gaming Commission Fund 157,451

 Personal Service 59,411,104E
 Expense and Equipment 6,288,232E

From State Highways and Transportation Department Fund	65,699,336
Personal Service	2,533,501E
Expense and Equipment	<u>257,285E</u>
From Criminal Record System Fund	2,790,786
Personal Service	62,753E
Expense and Equipment	<u>6,427E</u>
From Highway Patrol Academy Fund	69,180
Personal Service	3,749E
Expense and Equipment	<u>617E</u>
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund	4,366
Personal Service	40,456E
Expense and Equipment	<u>6,026E</u>
From DNA Profiling Analysis Fund	46,482
Personal Service	41,857E
Expense and Equipment	<u>4,993E</u>
From Highway Patrol Traffic Records Fund	<u>46,850</u>
Total	<u>\$77,928,441</u>

SECTION 8.090.— To the Department of Public Safety

For the State Highway Patrol

For the Enforcement Program

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$8,682,786

From State Highways and Transportation Department Fund 68,444,438

Personal Service 3,017,571E

For receiving and expending donations and federal funds provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to expenditure of said funds

Expense and Equipment 8,207,677E

From Federal Funds 11,225,248

All expenditures must be in compliance with the United States

Department of Justice Equitable Sharing Program guidelines

Expense and Equipment

From Federal Drug Seizure Fund 917,503

Expense and Equipment

From Gaming Commission Fund 296,740

Personal Service 7,657

Expense and Equipment 184,100

From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund 191,757

For a statewide interoperable communication system for the Missouri
 State Highway Patrol and other state agencies
 From State Highways and Transportation Department Fund 25,601,052

Expense and Equipment
 From Highway Patrol Traffic Records Fund 304,000
 Total (Not to exceed 1,295.50 F.T.E.) \$115,663,524

SECTION 8.095.— To the Department of Public Safety

For the State Highway Patrol
 For gasoline expenses for State Highway Patrol vehicles, including
 aircraft and Gaming Commission vehicles
 Expense and Equipment
 From General Revenue Fund \$338,678
 From Gaming Commission Fund 449,923
 From State Highways and Transportation Department Fund 3,448,218
 Total \$4,236,819

SECTION 8.100.— To the Department of Public Safety

For the State Highway Patrol
 For purchase of vehicles and aircraft for the State Highway Patrol
 and the Gaming Commission
 Expense and Equipment
 From General Revenue Fund \$24,664
 From Federal Drug Seizure Fund 262,800
 From State Highways and Transportation Department Fund 6,222,293
 From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund 6,267,240
 From Gaming Commission Fund 514,541
 Total \$13,291,538

SECTION 8.105.— To the Department of Public Safety

For the State Highway Patrol
 For Crime Labs
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund \$2,379,098

Personal Service 222,260
 Expense and Equipment 636,223E
 For grants to St. Louis City and St. Louis County Forensic DNA Labs 100,000E
 From Federal Funds 958,483

Personal Service 3,616,622
 Expense and Equipment 895,386
 From State Highways and Transportation Department Fund 4,512,008

Personal Service 101,055
 Expense and Equipment 3,600
 From Criminal Record System Fund 104,655

Personal Service 60,544

Expense and Equipment	<u>1,478,305</u>
From DNA Profiling Analysis Fund	1,538,849

Expense and Equipment	
From State Forensic Laboratory Fund	<u>219,125E</u>
Total (Not to exceed 104.00 F.T.E.)	\$9,712,218

SECTION 8.110.— To the Department of Public Safety

For the State Highway Patrol

For the Law Enforcement Academy

Expense and Equipment	
From Federal Funds	\$59,655

Personal Service	163,329
Expense and Equipment	<u>82,298</u>
From Gaming Commission Fund	245,627

Personal Service	1,390,443
Expense and Equipment	<u>76,872</u>
From State Highways and Transportation Department Fund	1,467,315

Personal Service	96,055
Expense and Equipment	<u>624,914</u>
From Highway Patrol Academy Fund	<u>720,969</u>
Total (Not to exceed 36.00 F.T.E.)	\$2,493,566

SECTION 8.115.— To the Department of Public Safety

For the State Highway Patrol

For Vehicle and Driver Safety

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From State Highways and Transportation Department Fund	\$11,085,339

Expense and Equipment	
From Federal Funds	600,000E

Expense and Equipment	
From Highway Patrol Inspection Fund	<u>90,000E</u>
Total (Not to exceed 293.00 F.T.E.)	\$11,775,339

SECTION 8.120.— To the Department of Public Safety

For the State Highway Patrol

For refunding unused motor vehicle inspection stickers

From State Highways and Transportation Department Fund	\$40,000E
------------------------------------------------------------------	-----------

SECTION 8.125.— To the Department of Public Safety

For the State Highway Patrol

For Technical Services

Personal Service	\$354,426
Expense and Equipment	<u>38,246</u>
From General Revenue Fund	392,672

Personal Service	206,227
Expense and Equipment	<u>3,897,969E</u>
From Federal Funds	4,104,196

Personal Service	12,330,406
Expense and Equipment	<u>11,691,486</u>
From State Highways and Transportation Department Fund	24,021,892

Personal Service	3,814,680
Expense and Equipment	4,462,477
For National Criminal Record Reviews	<u>2,000,000E</u>
From Criminal Record System Fund	10,277,157

Personal Service	
From Gaming Commission Fund	20,502
From Highway Patrol Traffic Records Fund	74,555

Expense and Equipment	
From Criminal Justice Network and Technology Revolving Fund	<u>1,500,000E</u>
Total (Not to exceed 363.00 F.T.E.)	\$40,390,974

SECTION 8.130.— To the Department of Public Safety

For the State Highway Patrol

For the recoupment, receipt, and disbursement of funds for equipment
replacement, and expenses

Expense and Equipment	
From Highway Patrol Expense Fund	\$65,000E

SECTION 8.135.— Funds are to be transferred out of the State Treasury,
chargeable to the Highway Patrol Inspection Fund, to the State Road Fund

From Highway Patrol Inspection Fund	\$1E
-------------------------------------------	------

SECTION 8.140.— To the Department of Public Safety

For the State Water Patrol

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$5,692,701

Personal Service	555,725
Expense and Equipment	<u>2,304,504E</u>
From Federal Funds	2,860,229

All expenditures must be in compliance with the United States Department of Justice Equitable Sharing Program guidelines	
Expense and Equipment	
From Federal Drug Seizure Fund	20,000

Personal Service	1,665,244
Expense and Equipment	<u>600,000</u>
From Missouri State Water Patrol Fund	<u>2,265,244</u>
Total (Not to exceed 113.50 F.T.E.)	\$10,838,174

SECTION 8.145.— To the Department of Public Safety

For the Division of Alcohol and Tobacco Control

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$936,142
From Federal Funds	615,141E
From Healthy Families Trust Fund	<u>144,760</u>
Total (Not to exceed 21.00 F.T.E.)	\$1,696,043

SECTION 8.150.— To the Department of Public Safety

For the Division of Alcohol and Tobacco Control

For refunds for unused liquor and beer licenses and for liquor and beer
stamps not used and canceled

From General Revenue Fund	\$18,000E
-------------------------------------	-----------

SECTION 8.155.— To the Department of Public Safety

For the Division of Fire Safety

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$2,190,717
From Elevator Safety Fund	395,512
From Boiler and Pressure Vessels Safety Fund	370,612
From Missouri Explosives Safety Act Administration Fund	120,328

Expense and Equipment

From Federal Funds	<u>1E</u>
Total (Not to exceed 68.92 F.T.E.)	\$3,077,170

SECTION 8.160.— To the Department of Public Safety

For the Division of Fire Safety

For the Fire Safe Cigarette Program

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From Cigarette Fire Safety and Firefighter Protection Act Fund	\$36,528
--------------------------------------------------------------------------	----------

SECTION 8.165.— To the Department of Public Safety

For the Division of Fire Safety

For firefighter training contracted services

Expense and Equipment

From Chemical Emergency Preparedness Fund	\$100,000
From Fire Education Fund	<u>150,000E</u>
Total	\$250,000

SECTION 8.170.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Administration and Service to Veterans

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$2,324,980
From Missouri Veterans' Homes Fund	642,464
From Veterans' Commission Capital Improvement Trust Fund	2,452,724
From Federal Funds and Other Funds	1E

Expense and Equipment	
From Veterans Trust Fund	24,800
Total (Not to exceed 114.46 F.T.E.)	\$5,444,969

SECTION 8.175.— To the Department of Public Safety
 For the Missouri Veterans' Commission
 For Veterans' Service Officer Program
 From Veterans' Commission Capital Improvement Trust Fund \$1,000,000

SECTION 8.180.— To the Department of Public Safety
 For the Missouri Veterans' Commission
 For Missouri Veterans' Homes
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund \$15,415,223
 From Missouri Veterans' Homes Fund 54,026,113

Expense and Equipment	
From Veterans Trust Fund	52,500

Personal Service	
From Veterans' Commission Capital Improvement Trust Fund	27,804

For refunds to residents of Missouri veterans' homes from the U.S.
 Veterans Administration
 From Missouri Veterans' Homes Fund 1,274,400E

For the purpose of paying overtime to state employees and/or paying otherwise
 authorized personal service expenditures in lieu of such overtime payments.
 Non-exempt state employees identified by Section 105.935, RSMo, will be
 paid first with any remaining funds being used to pay overtime to any other
 state employees
 From General Revenue Fund 3,961
 From Missouri Veterans' Homes Fund 2,423,654
 Total (Not to exceed 1,646.48 F.T.E.) \$73,223,655

SECTION 8.185.— Funds are to be transferred out of the State Treasury,
 chargeable to the Veterans' Commission Capital Improvement Trust
 Fund, to the Missouri Veterans' Homes Fund
 From Veterans' Commission Capital Improvement Trust Fund \$500,000E

SECTION 8.190.— To the Department of Public Safety
 For the Gaming Commission
 For the Divisions of Gaming and Bingo
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between

personal service and expense and equipment	
Personal Service	\$13,858,412
Expense and Equipment	1,914,597
For National Council of Legislators from Gaming States dues	3,000
From Gaming Commission Fund	15,776,009

Personal Service	81,905
Expense and Equipment	60,000
From Compulsive Gamblers Fund	141,905
Total (Not to exceed 230.00 F.T.E.)	\$15,917,914

SECTION 8.195.— To the Department of Public Safety

For the Gaming Commission

For fringe benefits, including retirement contributions for members of
the Missouri Department of Transportation and Highway Patrol
Employees' Retirement System, and insurance premiums for State
Highway Patrol employees assigned to work under the direction
of the Gaming Commission

Personal Service	\$4,809,328E
Expense and Equipment	267,317E
From Gaming Commission Fund	\$5,076,645

SECTION 8.200.— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount that
is credited to the Gaming Commission Fund

From Gaming Commission Fund	\$15,000E
-----------------------------	-----------

SECTION 8.205.— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount
received for bingo fees

From Bingo Proceeds for Education Fund	\$5,000E
----------------------------------------	----------

SECTION 8.210.— To the Department of Public Safety

For the Gaming Commission

For breeder incentive payments

From Missouri Breeders Fund	\$5,000E
-----------------------------	----------

SECTION 8.215.— Funds are to be transferred out of the State Treasury,
chargeable to the Gaming Commission Fund, to the Veterans'

Commission Capital Improvement Trust Fund

From Gaming Commission Fund	\$6,000,000E
-----------------------------	--------------

SECTION 8.220.— Funds are to be transferred out of the State Treasury,
chargeable to the Gaming Commission Fund, to the Missouri

National Guard Trust Fund

From Gaming Commission Fund	\$4,000,000E
-----------------------------	--------------

SECTION 8.225.— Funds are to be transferred out of the State Treasury,
chargeable to the Gaming Commission Fund, to the Access Missouri

Financial Assistance Fund

From Gaming Commission Fund \$5,000,000E

SECTION 8.230.— Funds are to be transferred out of the State Treasury,
chargeable to the Gaming Commission Fund, to the Early Childhood
Development, Education and Care Fund

From Gaming Commission Fund \$30,320,000E

SECTION 8.235.— Funds are to be transferred out of the State Treasury,
chargeable to the Gaming Commission Fund, to the Compulsive
Gamblers Fund

From Gaming Commission Fund \$489,850E

SECTION 8.240.— To the Adjutant General
For Missouri Military Forces Administration

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund \$1,091,966

All expenditures must be in compliance with the United States
Department of Justice Equitable Sharing Program guidelines
Expense and Equipment

From Federal Drug Seizure Fund 21,000E

Total (Not to exceed 29.48 F.T.E.) \$1,112,966

SECTION 8.245.— To the Adjutant General

For activities in support of the Guard, including the National Guard

Tuition Assistance Program and the Military Honors Program
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund \$807,160

From Missouri National Guard Trust Fund 5,441,929

Total (Not to exceed 42.40 F.T.E.) \$6,249,089

SECTION 8.250.— To the Adjutant General

For the Veterans Recognition Program

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From Veterans' Commission Capital Improvement Trust Fund

Total (Not to exceed 3.00 F.T.E.) \$628,021

SECTION 8.255.— To the Adjutant General

For Missouri Military Forces Field Support

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund \$851,556

Personal Service 95,167E

Expense and Equipment 73,063E

From Federal Funds	168,230
Total (Not to exceed 40.37 F.T.E.)	<u>\$1,019,786</u>

SECTION 8.260.— To the Adjutant General

For operational expenses at armories from armory rental fees

Expense and Equipment

From Adjutant General Revolving Fund	\$25,000E
--------------------------------------------	-----------

SECTION 8.265.— To the Adjutant General

For the Missouri Military Family Relief Program

Expense and Equipment	\$10,500
-----------------------------	----------

For grants to family members of the National Guard and reservists who

are in financial need	<u>189,500E</u>
-----------------------------	-----------------

From Missouri Military Family Relief Fund	\$200,000
-------------------------------------------------	-----------

SECTION 8.275.— To the Adjutant General

For training site operating costs

Expense and Equipment

From Missouri National Guard Training Site Fund	\$244,800E
-------------------------------------------------------	------------

SECTION 8.280.— To the Adjutant General

For Military Forces Contract Services

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$407,833
---------------------------------	-----------

From Federal Funds	16,846,856E
--------------------------	-------------

For refund of federal overpayments to the state for the Contract Services Program

From Federal Funds	30,000E
--------------------------	---------

Personal Service

From Missouri National Guard Training Site Fund	19,032
-------------------------------------------------------	--------

Expense and Equipment

From Missouri National Guard Trust Fund	<u>231,249</u>
-----------------------------------------------	----------------

Total (Not to exceed 321.80 F.T.E.)	<u>\$17,534,970</u>
-------------------------------------------	---------------------

SECTION 8.285.— To the Adjutant General

For the Office of Air Search and Rescue

Expense and Equipment

From General Revenue Fund	\$13,788
---------------------------------	----------

SECTION 8.290.— To the Department of Public Safety

For the State Emergency Management Agency

For Administration and Emergency Operations

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$1,374,463
---------------------------------	-------------

Personal Service	1,198,255
------------------------	-----------

Expense and Equipment	849,376
From Federal Funds	2,047,631

Personal Service	155,790
Expense and Equipment	86,892E
From Chemical Emergency Preparedness Fund	242,682
Total (Not to exceed 65.00 F.T.E.)	\$3,664,776

SECTION 8.295.— To the Department of Public Safety

For the State Emergency Management Agency

For the Community Right-to-Know Act

From Chemical Emergency Preparedness Fund	\$650,000E
-------------------------------------------------	------------

For distribution of funds to local emergency planning commissions to
implement the federal Hazardous Materials Transportation Uniform
Safety Act of 1990

From Federal Funds	346,890E
Total	\$996,890

SECTION 8.300.— To the Department of Public Safety

For the State Emergency Management Agency

For all allotments, grants, and contributions from federal and other sources
that are deposited in the State Treasury for administrative and training
expenses of the State Emergency Management Agency and for first
responder training programs

From Federal Funds	\$6,946,000E
--------------------------	--------------

For all allotments, grants, and contributions from federal and other sources
that are deposited in the State Treasury for the use of the State
Emergency Management Agency for alleviating distress from disasters

From Missouri Disaster Fund	505,167E
-----------------------------------	----------

To provide matching funds for federal grants and for emergency assistance
expenses of the State Emergency Management Agency as provided in
Section 44.032, RSMo

From General Revenue Fund	999,999E
---------------------------------	----------

To provide for expenses of any state agency responding during a declared
emergency at the direction of the governor provided the services furnish
immediate aid and relief

From General Revenue Fund	1E
Total	\$8,451,167

DEPARTMENT OF PUBLIC SAFETY TOTALS

General Revenue Fund	\$54,268,676
Federal Funds	113,090,687
Other Funds	356,463,182
Total	\$523,822,545

Approved June 17, 2010

HB 2009 [CCS SCS HCS HB 2009]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF CORRECTIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Corrections and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011, as follows:

SECTION 9.005.— To the Department of Corrections

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund \$4,242,328

For the purpose of funding Family Support Services

From General Revenue Fund 300,000

From Federal Funds 100,000

Total (Not to exceed 109.50 F.T.E.) \$4,642,328

SECTION 9.010.— To the Department of Corrections

For the Office of the Director

For the purpose of funding all costs associated with the Offender Reentry Program

Expense and Equipment

From Inmate Revolving Fund \$316,282

SECTION 9.010.— To the Department of Corrections

For the Office of the Director

For a Kansas City Reentry Program

From General Revenue Fund \$178,000

SECTION 9.015.— To the Department of Corrections

For the Office of the Director

For the purpose of funding all federal grants and contributions of funds from any other source which may become available between sessions of the general assembly and for the expenditures of contributions, gifts, and grants in support of a foster care dog program to increase the adoptability of shelter animals and train service dogs for the disabled

Personal Service \$2,595,487E

Expense and Equipment	7,499,346E
From Federal and Other Funds (Not to exceed 52.00 F.T.E.)	\$10,094,833

SECTION 9.020.— To the Department of Corrections

For the Office of the Director

For the purpose of funding costs associated with increased offender population department-wide, including, but not limited to, funding for personal service, expense and equipment, contractual services, repairs, renovations, capital improvements, and compensatory time provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund	\$1,390,714
---------------------------------	-------------

SECTION 9.025.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the expense of telecommunications department-wide provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund	\$1,910,680
---------------------------------	-------------

SECTION 9.030.— To the Department of Corrections

For the Office of the Director

For the purpose of funding restitution payments for those wrongly convicted

From General Revenue Fund	\$151,475
---------------------------------	-----------

SECTION 9.035.— To the Department of Corrections

For the Division of Human Services

Personal Service and/or Expense and Equipment, provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund	\$8,260,310
---------------------------------	-------------

From Inmate Revolving Fund	174,468
----------------------------------	---------

Total (Not to exceed 237.60 F.T.E.)	\$8,434,778
-------------------------------------------	-------------

SECTION 9.040.— To the Department of Corrections

For the Division of Human Services

For the purpose of funding general services provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund	\$338,292
---------------------------------	-----------

SECTION 9.045.— To the Department of Corrections

For the Division of Human Services

For the purchase, transportation, and storage of food and food service items, and operational expenses of food preparation facilities at all correctional institutions provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund	\$29,083,489
---------------------------------	--------------

From Federal Funds	250,000E
Total	\$29,333,489

SECTION 9.050.— To the Department of Corrections

For the Division of Human Services

For the purpose of funding training costs department-wide provided that
not more than thirty-five percent (35%) flexibility is allowed between
divisions

Expense and Equipment

From General Revenue Fund	\$1,253,673
---------------------------------	-------------

SECTION 9.055.— To the Department of Corrections

For the Division of Human Services

For the purpose of funding employee health and safety provided that not
more than thirty-five percent (35%) flexibility is allowed between
divisions

Expense and Equipment

From General Revenue Fund	\$600,971
---------------------------------	-----------

SECTION 9.060.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the expenses and small equipment purchased at
any of the adult institutions department-wide provided that not more than
thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund	\$13,571,578
---------------------------------	--------------

From Working Capitol Revolving Fund	3,000,000
-------------------------------------------	-----------

Total	\$16,571,578
-------------	--------------

SECTION 9.065.— To the Department of Corrections

For the Division of Human Services

For the purpose of paying overtime to state employees and/or paying otherwise
authorized personal service expenditures in lieu of such overtime payments.
Nonexempt state employees identified by Section 105.935, RSMo, will be
paid first with any remaining funds being used to pay overtime to any other
state employees provided that not more than thirty-five percent (35%)
flexibility is allowed between divisions

From General Revenue Fund	\$5,101,448
---------------------------------	-------------

From Other Funds	2E
------------------------	----

Total	\$5,101,450
-------------	-------------

SECTION 9.070.— To the Department of Corrections

For the Division of Adult Institutions

Personal Service and/or Expense and Equipment, provided that not
more than thirty-five percent (35%) flexibility is allowed between
personal service and expense and equipment and not more than
thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 38.65 F.T.E.)	\$1,613,417
--------------------------------------------------------------	-------------

SECTION 9.075.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the inmate wage and discharge costs at all

correctional facilities provided that not more than thirty-five percent
 (35%) flexibility is allowed between divisions
 Expense and Equipment
 From General Revenue Fund \$3,279,897

SECTION 9.080.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Jefferson City Correctional Center
 Personal Service, provided that not more than fifty percent
 (50%) flexibility is allowed between institutions
 From General Revenue Fund (Not to exceed 524.29 F.T.E.) \$16,536,753

SECTION 9.085.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Central Missouri Correctional Center
 at Jefferson City
 Personal Service, provided that not more than fifty percent
 (50%) flexibility is allowed between institutions
 From General Revenue Fund (Not to exceed 15.69 F.T.E.) \$583,973

SECTION 9.090.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Women's Eastern Reception, Diagnostic
 and Correctional Center at Vandalia
 Personal Service, provided that not more than fifty percent
 (50%) flexibility is allowed between institutions
 From General Revenue Fund (Not to exceed 428.60 F.T.E.) \$13,464,814

SECTION 9.095.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Ozark Correctional Center at Fordland
 Personal Service, provided that not more than fifty percent
 (50%) flexibility is allowed between institutions
 From General Revenue Fund \$4,897,443
 From Inmate Revolving Fund 261,496
 Total (Not to exceed 155.40 F.T.E.) \$5,158,939

SECTION 9.100.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Moberly Correctional Center
 Personal Service, provided that not more than fifty percent
 (50%) flexibility is allowed between institutions
 From General Revenue Fund (Not to exceed 383.66 F.T.E.) \$12,404,718

SECTION 9.105.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Algoa Correctional Center at Jefferson City
 Personal Service, provided that not more than fifty percent
 (50%) flexibility is allowed between institutions
 From General Revenue Fund (Not to exceed 307.21 F.T.E.) \$9,694,839

SECTION 9.110.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Missouri Eastern Correctional Center at Pacific

Personal Service, provided that not more than fifty percent

(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 312.53 F.T.E.) \$9,853,481

SECTION 9.115.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Chillicothe Correctional Center

Personal Service, provided that not more than fifty percent

(50%) flexibility is allowed between institutions

From General Revenue Fund \$12,957,282

From Inmate Revolving Fund 27,829

Total (Not to exceed 491.53 F.T.E.) \$12,985,111

SECTION 9.120.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Boonville Correctional Center

Personal Service, provided that not more than fifty percent

(50%) flexibility is allowed between institutions

From General Revenue Fund \$9,133,394

From Inmate Revolving Fund 33,876

Total (Not to exceed 284.27 F.T.E.) \$9,167,270

SECTION 9.125.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Farmington Correctional Center

Personal Service, provided that not more than fifty percent

(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 568.26 F.T.E.) \$19,116,080

SECTION 9.130.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Western Missouri Correctional Center
at Cameron

Personal Service, provided that not more than fifty percent

(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 474.65 F.T.E.) \$15,601,954

SECTION 9.135.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Potosi Correctional Center

Personal Service, provided that not more than fifty percent

(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 325.98 F.T.E.) \$10,645,288

SECTION 9.140.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Fulton Reception and Diagnostic Center

Personal Service, provided that not more than fifty percent

(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 411.32 F.T.E.) \$12,943,850

SECTION 9.145.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Tipton Correctional Center

Personal Service, provided that not more than fifty percent
(50%) flexibility is allowed between institutions

From General Revenue Fund \$9,310,035

From Inmate Revolving Fund 88,206

Total (Not to exceed 294.37 F.T.E.) \$9,398,241

SECTION 9.150.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Western Reception, Diagnostic and
Correctional Center at St. Joseph

Personal Service, provided that not more than fifty percent
(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 512.64 F.T.E.) \$15,689,798

SECTION 9.155.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Maryville Treatment Center

Personal Service, provided that not more than fifty percent
(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 181.34 F.T.E.) \$5,541,333

SECTION 9.160.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Crossroads Correctional Center at Cameron

Personal Service, provided that not more than fifty percent
(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 380.09 F.T.E.) \$11,569,260

SECTION 9.165.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Northeast Correctional Center at Bowling Green

Personal Service, provided that not more than fifty percent
(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 520.89 F.T.E.) \$15,776,069

SECTION 9.170.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Eastern Reception, Diagnostic and
Correctional Center at Bonne Terre

Personal Service, provided that not more than fifty percent
(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 616.73 F.T.E.) \$18,549,448

SECTION 9.175.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the South Central Correctional Center at Licking

Personal Service, provided that not more than fifty percent

(50%) flexibility is allowed between institutions
 From General Revenue Fund (Not to exceed 391.87 F.T.E.) \$11,862,726

SECTION 9.180.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Southeast Correctional Center at Charleston

Personal Service, provided that not more than fifty percent

(50%) flexibility is allowed between institutions

From General Revenue Fund (Not to exceed 391.96 F.T.E.) \$11,733,061

SECTION 9.185.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

Personal Service and/or Expense and Equipment, provided that not

more than thirty-five percent (35%) flexibility is allowed between

personal service and expense and equipment and not more than

thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 33.15 F.T.E.) \$1,562,142

SECTION 9.190.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding contractual services for offender physical and

mental health care provided that not more than thirty-five percent

(35%) flexibility is allowed between divisions

From General Revenue Fund \$136,641,038

Expense and Equipment

From Federal Funds 1E

Total \$136,641,039

SECTION 9.195.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding medical equipment provided that not more

than thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund \$219,087

SECTION 9.200.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of substance abuse services provided that not more

than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund \$9,491,360

Expense and Equipment

From Correctional Substance Abuse Earnings Fund 264,600

Total (Not to exceed 109.00 F.T.E.) \$9,755,960

SECTION 9.205.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of toxicology testing provided that not more than

thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment

From General Revenue Fund \$710,856

SECTION 9.210.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For offender education

Personal Service and/or Expense and Equipment, provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 252.00 F.T.E.) \$10,599,335

SECTION 9.215.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding Missouri Correctional Enterprises

Personal Service \$8,133,095

Expense and Equipment 25,645,726

From Working Capital Revolving Fund (Not to exceed 234.00 F.T.E.) \$33,778,821

SECTION 9.220.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding the Private Sector/Prison Industry Enhancement Program

Expense and Equipment

From Working Capital Revolving Fund \$866,486

SECTION 9.225.— To the Department of Corrections

For the Board of Probation and Parole

Personal Service and/or Expense and Equipment, provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund \$66,028,493

Expense and Equipment

From Inmate Revolving Fund 7,944,155

Total (Not to exceed 1,750.81 F.T.E.) \$73,972,648

SECTION 9.230.— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding the St. Louis Community Release Center

Personal Service, provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 126.86 F.T.E.) \$4,132,073

SECTION 9.235.— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding the Kansas City Community Release Center

Personal Service, provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund \$2,379,483

From Inmate Revolving Fund 47,423

Total (Not to exceed 76.18 F.T.E.) \$2,426,906

SECTION 9.240.— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding the Command Center provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment

From General Revenue Fund \$6,355

Personal Service

From Inmate Revolving Fund 542,932Total (Not to exceed 14.40 F.T.E.) \$549,287**SECTION 9.245.**— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding Local Sentencing initiatives

Expense and Equipment

From Inmate Revolving Fund \$1,087,115

SECTION 9.250.— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding residential treatment facilities

Expense and Equipment

From Inmate Revolving Fund \$4,989,458

SECTION 9.255.— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding electronic monitoring

Expense and Equipment

From Inmate Revolving Fund \$1,980,289

SECTION 9.260.— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding community supervision centers

Personal Service and/or Expense and Equipment, provided that not more than thirty-five percent (35%) flexibility is allowed between personal service and expense and equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From Inmate Revolving Fund \$750,000

From General Revenue Fund (Not to exceed 144.42 F.T.E.) 4,463,231Total \$5,213,231**SECTION 9.265.**— To the Department of Corrections

For paying an amount in aid to the counties that is the net amount of costs in criminal cases, transportation of convicted criminals to the state penitentiaries, housing, and costs for reimbursement of the expenses associated with extradition, less the amount of unpaid city or county liability to furnish public defender office space and utility services pursuant to Section 600.040, RSMo

From General Revenue Fund \$38,060,616

DEPARTMENT OF CORRECTIONS TOTALS

General Revenue Fund	\$593,435,940
Federal Funds	10,434,834
Other Funds	56,163,438
Total	<u>\$660,034,212</u>

Approved June 17, 2010

HB 2010 [CCS SCS HCS HB 2010]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: DEPARTMENT OF MENTAL HEALTH, BOARD OF PUBLIC BUILDINGS,
DEPARTMENT OF HEALTH AND SENIOR SERVICES, AND MISSOURI HEALTH FACILITIES
REVIEW COMMITTEE.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Mental Health, the Board of Public Buildings, the Department of Health and Senior Services, and the several divisions and programs thereof, the Missouri Health Facilities Review Committee to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011, as follows:

SECTION 10.005.— To the Department of Mental Health

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund \$577,813

Personal Service 37,358

Expense and Equipment 76,223

From Federal Funds 113,581

Total (Not to exceed 8.49 F.T.E.) \$619,394

SECTION 10.010.— To the Department of Mental Health

For the Office of the Director

For the purpose of paying overtime to state employees and/or paying otherwise
authorized personal service expenditures in lieu of such overtime payments.
Non-exempt state employees identified by Section 105.935, RSMo, will be
paid first with any remaining funds being used to pay overtime to any other
state employees

From General Revenue Fund \$1,090,712

SECTION 10.015.— There is transferred out of the State Treasury from Federal Funds to the OA Information Technology - Federal and Other Fund for the purpose of funding the consolidation of Information Technology Services

From Federal Funds \$60,000E

SECTION 10.020.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding Mental Health Transformation - State Incentive grants

Personal Service \$726,856

Expense and Equipment 2,060,214E

From Federal Funds (Not to exceed 9.85 F.T.E.) \$2,787,070

SECTION 10.025.— To the Department of Mental Health

For the Office of the Director

For funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$5,095,742

Personal Service 729,523

Expense and Equipment 847,016

From Federal Funds 1,576,539

For the MO HealthNet mental health partnership technology initiative

From General Revenue Fund 744,182

From Healthcare Technology Fund 750,000

From Federal Funds 1,716,650

For the payment of fees to contractors who engage in revenue maximization projects on behalf of the Department of Mental Health

From Federal Funds 1E

Total (Not to exceed 126.05 F.T.E.) \$9,883,114

SECTION 10.030.— To the Department of Mental Health

For the Office of the Director

For staff training

From General Revenue Fund \$393,574

From Federal Funds 500,000

From Mental Health Earnings Fund 100,000

Total \$993,574

SECTION 10.035.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding insurance, private pay, licensure fee, and/or

MO HealthNet refunds by state facilities operated by the Department of Mental Health

From General Revenue Fund \$49,217E

For the purpose of making refund payments
 From Federal and Other Funds 1,100E

For the payment of refunds set off against debts as required by Section
 143.786, RSMo
 From Debt Offset Escrow Fund 70,000E
 Total \$120,317

SECTION 10.040.— There is transferred out of the State Treasury from
 the Abandoned Fund Account to Mental Health Trust Fund
 From Abandoned Fund Account \$50,000E

SECTION 10.045.— To the Department of Mental Health
 For the Office of the Director
 For the purpose of funding receipt and disbursement of donations and gifts
 which may become available to the Department of Mental Health
 during the year (excluding federal grants and funds)
 Personal Service \$427,464
 Expense and Equipment 1,219,597
 From Mental Health Trust Fund (Not to exceed 11.50 F.T.E.) \$1,647,061

SECTION 10.050.— To the Department of Mental Health
 For the Office of the Director
 For the purpose of receiving and expending grants, donations, contracts,
 and payments from private, federal, and other governmental agencies
 which may become available between sessions of the General Assembly
 provided that the General Assembly shall be notified of the source of
 any new funds and the purpose for which they shall be expended, in
 writing, prior to the use of said funds
 Personal Service \$112,982E
 Expense and Equipment 1,794,378E
 From Federal Funds (Not to exceed 2.00 F.T.E.) \$1,907,360

SECTION 10.055.— To the Department of Mental Health
 For the Office of the Director
 For the purpose of funding Children's System of Care \$5,519,307

 Personal Service and/or Expense and Equipment, provided that not
 more than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment 451,382
 From Federal Funds (Not to exceed 2.20 F.T.E.) \$5,970,689

SECTION 10.060.— To the Department of Mental Health
 For the Office of the Director
 For housing assistance for homeless veterans
 From General Revenue Fund \$300,000
 From Federal Funds 715,000

 For the purpose of funding Shelter Plus Care grants
 From Federal Funds 10,152,802
 Total \$11,167,802

SECTION 10.065.— To the Department of Mental Health

For MO HealthNet payments related to intergovernmental payments

From Mental Health Intergovernmental Transfer Fund	\$8,000,000
From Federal Funds	<u>11,000,000E</u>
Total	\$19,000,000

SECTION 10.070.— There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Department of Social Services Intergovernmental Transfer Fund for the purpose of providing the state match for the Department of Mental Health payments

From General Revenue Fund	\$147,900,000E
-------------------------------------	----------------

SECTION 10.075.— There is transferred out of the State Treasury from Federal Funds to the General Revenue Fund for the purpose of supporting the Division of Developmental Disabilities community programs

From Federal Funds	\$850,000
------------------------------	-----------

SECTION 10.080.— There is transferred out of the State Treasury from Federal Funds to the General Revenue Fund Disproportionate Share Hospital (DSH) funds leveraged by the Department of Mental Health — Institute of Mental Disease (IMD) facilities

From Federal Funds	\$37,304,309E
------------------------------	---------------

SECTION 10.085.— There is transferred out of the State Treasury from Federal Funds to the General Revenue Fund for the purpose of funding Division of Developmental Disabilities state-operated facilities

From Federal Funds	\$700,000
------------------------------	-----------

SECTION 10.100.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the administration of statewide comprehensive alcohol and drug abuse prevention and treatment programs

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	\$950,822
From General Revenue Fund	

Personal Service	867,669
Expense and Equipment	<u>183,541</u>
From Federal Funds	1,051,210

Personal Service	
From Health Initiatives Fund	45,069

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment	
From Mental Health Earnings Fund	<u>166,433</u>

Total (Not to exceed 41.31F.T.E.)	\$2,213,534
---------------------------------------------	-------------

SECTION 10.105.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding prevention and education services

Personal Service

From General Revenue Fund \$25,973

For prevention and education services 4,288,996

Personal Service 388,930

Expense and Equipment 102,363

From Federal Funds 4,780,289

For prevention and education services

Personal Service and/or Expense and Equipment

From Healthy Families Trust Fund 300,000

For tobacco retailer education

The Division of Alcohol and Drug Abuse shall be allowed to use persons
under the age of eighteen for the purpose of tobacco retailer education in
support of Synar requirements under the federal substance abuse
prevention and treatment block grant

Personal Service 173,250

Expense and Equipment 103,622

From Federal Funds 276,872

For a state incentive program

Personal Service 102,519

Expense and Equipment 2,821,412

From Federal Funds 2,923,931

For Community 2000 Team programs

From General Revenue Fund 498,969

From Federal Funds 2,059,693

From Health Initiatives Fund 82,148

For school-based alcohol and drug abuse prevention programs

From Federal Funds 1,227,356

Total (Not to exceed 15.76 F.T.E.) \$12,175,231

SECTION 10.110.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the treatment of alcohol and drug abuse

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

..... \$4,850,598

For treatment of alcohol and drug abuse 26,637,197

From General Revenue Fund 31,487,795

For the purpose of funding youth services

From Mental Health Interagency Payment Fund 30,000

For treatment of alcohol and drug abuse 42,740,238E

Personal Service 779,722

Expense and Equipment	3,036,012
From Federal Funds	46,555,972

For treatment of drug and alcohol abuse with the Access to Recovery Grant

For treatment services	6,589,796
Personal Service	156,900
Expense and Equipment	693,550
From Federal Funds	7,440,246

For treatment of alcohol and drug abuse

From Inmate Revolving Fund	3,999,560
From Healthy Families Trust Fund	1,955,313
From Health Initiatives Fund	6,131,552
From DMH Local Tax Matching Fund	497,415
From Mental Health Earnings Fund	203,865
Total (Not to exceed 33.33 F.T.E.)	\$98,301,718

SECTION 10.115.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding treatment of compulsive gambling	\$204,870
Personal Service	39,936
Expense and Equipment	5,194
From Compulsive Gamblers Fund (Not to exceed 1.00 F.T.E.)	\$250,000

SECTION 10.120.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the Substance Abuse Traffic Offender Program

From Federal Funds	\$427,864
From Health Initiatives Fund	231,466
From Mental Health Earnings Fund	3,931,651E
Total (Not to exceed 5.48 F.T.E.)	\$4,590,981

SECTION 10.200.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding division administration

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$650,861
-------------------------------------	-----------

Personal Service	604,287
Expense and Equipment	366,601

From Federal Funds	970,888
------------------------------	---------

For suicide prevention initiatives

Personal Service	24,892
Expense and Equipment	620,401

From Federal Funds	645,293
------------------------------	---------

Total (Not to exceed 24.60 F.T.E.)	\$2,267,042
----------------------------------------------	-------------

SECTION 10.205.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding facility support and PRN nursing and direct care staff pool, provided that staff paid from the PRN nursing and direct care staff pool will only incur fringe benefit costs applicable to part-time employment Personal Service and/or Expense and Equipment	
From General Revenue Fund	\$3,355,377
For the purpose of funding costs for forensic clients resulting from loss of benefits under provisions of the Social Security Domestic Employment Reform Act of 1994	
From General Revenue Fund	913,685
To pay the state operated hospital provider tax	
From General Revenue Fund	12,000,000E
For the purpose of funding expenses related to fluctuating census demands, Medicare bundling compliance, Medicare Part D implementation and to restore facilities personal service and/or expense and equipment incurred for direct care worker training and other operational maintenance expenses	
From Federal Funds	2,555,545
From Mental Health Earnings Fund	801,175
For the purpose of funding a staff pool to support the Psychiatric Acute Care Transformation process at the Department of Mental Health acute care facilities	
From Mental Health Interagency Payments Fund	748,614
Total (Not to exceed 93.40 F.T.E.)	\$20,374,396
SECTION 10.210. — To the Department of Mental Health	
For the Division of Comprehensive Psychiatric Services	
For the purpose of funding adult community programs	
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund	\$347,891
From Federal Funds	1,358,633
For the purpose of funding adult community programs, provided that up to ten percent (10%) of this appropriation may be used for services for youth	
From General Revenue Fund	81,182,837
From Federal Funds	87,479,542E
From Mental Health Earnings Fund	583,740E
From DMH Local Tax Matching Fund	237,411E
For the provision of mental health services and support services to other agencies	
From Mental Health Interagency Payments Fund	1,272,400
For the purpose of funding programs for the homeless mentally ill	
From General Revenue Fund	496,047
From Federal Funds	800,000
Total (Not to exceed 8.80 F.T.E.)	\$173,758,501

SECTION 10.215.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of reimbursing attorneys, physicians, and counties for
 fees in involuntary civil commitment procedures \$774,099E
 For distribution through the Office of Administration to counties pursuant
 to Section 56.700, RSMo 132,550
 From General Revenue Fund \$906,649

SECTION 10.220.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of funding forensic support services
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment \$752,878
 From General Revenue Fund 4,094
 From Federal Funds \$756,972
 Total (Not to exceed 20.39 F.T.E.)

SECTION 10.225.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of funding youth community programs
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment \$171,258
 From General Revenue Fund 1,291,914
 From Federal Funds

For the purpose of funding youth community programs, provided that up to
 ten percent (10%) of this appropriation may be used for services for adults
 From General Revenue Fund 22,233,651
 From Federal Funds 24,915,283E
 From DMH Local Tax Matching Fund 836,853E

For the purpose of funding youth services
 From Metal Health Interagency Payment Fund 4,000,000
 Total (Not to exceed 6.29 F.T.E.) \$53,448,959

SECTION 10.230.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of funding services for children who are clients of
 the Department of Social Services
 Expense and Equipment \$156,135
 From Mental Health Interagency Payments Fund

SECTION 10.235.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purchase and administration of new medication therapies
 Expense and Equipment \$11,288,150
 From General Revenue Fund 916,243
 From Federal Funds \$12,204,393
 Total

SECTION 10.300.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Fulton State Hospital

Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$51,050,195

Personal Service 897,777
Expense and Equipment 1,034,074

From Federal Funds 1,931,851

For the provision of support services to other agencies

Expense and Equipment

From Mental Health Interagency Payments Fund 250,000

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 1,334,142

Total (Not to exceed 1,184.90 F.T.E.) \$54,566,188

SECTION 10.305.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Northwest Missouri Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$11,926,790

Personal Service 577,400
Expense and Equipment 105,903

From Federal Funds 683,303

For psychiatric services

From Mental Health Trust Fund 447,558

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 161,080

From Federal Funds 11,082

Total (Not to exceed 300.85 F.T.E.) \$13,229,813

SECTION 10.310.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding St. Louis Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$19,166,448

Personal Service 319,538

Expense and Equipment 93,210

From Federal Funds 412,748

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 278,968

From Federal Funds 917

Total (Not to exceed 498.49 F.T.E.) \$19,859,081

SECTION 10.315.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southwest Missouri Psychiatric

Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$2,954,363

From Federal Funds 193,761

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 14,911

Total (Not to exceed 76.05 F.T.E.) \$3,163,035

SECTION 10.320.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Metropolitan St. Louis Psychiatric Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$13,376,353

Personal Service	
From Federal Funds	289,680

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	16,544
From Federal Funds	1,126
Total (Not to exceed 303.03 F.T.E.)	\$13,683,703

SECTION 10.330.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southeast Missouri Mental Health Center

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than twenty-five percent (25%) flexibility is allowed between Southeast Missouri Mental Health Center and Southeast Missouri Mental Health Center — Sexual Offender Rehabilitation and Treatment Services Program

From General Revenue Fund	\$19,848,926
From Federal Funds	345,788

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	158,816
---------------------------	---------

For the purpose of funding Southeast Missouri Mental Health Center —

Sexual Offender Rehabilitation and Treatment Services Program
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than twenty-five percent (25%) flexibility is allowed between Southeast Missouri Mental Health Center — Sexual Offender Rehabilitation and Treatment Services Program and Southeast Missouri Mental Health Center

From General Revenue Fund	15,993,705
From Federal Funds	27,118

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	82,611
Total (Not to exceed 885.55 F.T.E.)	\$36,456,964

SECTION 10.340.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Center for Behavioral Medicine

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$13,350,243

From Federal Funds 731,201

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments.

Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 239,911

Total (Not to exceed 324.22 F.T.E.) \$14,321,355

SECTION 10.350.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Hawthorn Children's Psychiatric Hospital

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$6,555,956

From Federal Funds 1,720,063

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments.

Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 62,671

From Federal Funds 7,116

Total (Not to exceed 207.14 F.T.E.) \$8,345,806

SECTION 10.355.— To the Department of Mental Health

For the purpose of funding Cottonwood Residential Treatment Center

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund \$1,303,643

From Federal Funds 2,027,345

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments.

Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 18,891

From Federal Funds	1,103
Total (Not to exceed 87.26 F.T.E.)	<u>\$3,350,982</u>

SECTION 10.400.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding division administration

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$1,654,572
---------------------------------	-------------

Personal Service	303,009
------------------------	---------

Expense and Equipment	<u>63,881</u>
-----------------------------	---------------

From Federal Funds	<u>366,890</u>
--------------------------	----------------

Total (Not to exceed 35.10 F.T.E.)	<u>\$2,021,462</u>
------------------------------------------	--------------------

SECTION 10.405.— To the Department of Mental Health

For the purpose of funding cost associated with the Division of Developmental

Disabilities to achieve personnel standards at habilitation centers

Personal Service and/or Expense and Equipment

From General Revenue Fund	\$2,364,892
---------------------------------	-------------

From Federal Funds	5,105,407
--------------------------	-----------

To pay the state operated ICF/MR provider tax

From General Revenue Fund	<u>4,582,418E</u>
---------------------------------	-------------------

Total (Not to exceed 111.16 F.T.E.)	<u>\$12,052,717</u>
-------------------------------------------	---------------------

SECTION 10.410.— To the Department of Mental Health

For the Division of Developmental Disabilities

Provided that residential services for non-MO HealthNet eligibles
shall not be reduced below the prior year expenditures as long as the
person is evaluated to need the services

For the purpose of funding community programs

From General Revenue Fund	\$144,597,019
---------------------------------	---------------

From Federal Funds	298,738,717E
--------------------------	--------------

From Home and Community-Based Developmental Disabilities Waiver

Reimbursement Allowance Fund	1,525,484E
------------------------------------	------------

For the purpose of funding community programs

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	648,540
---------------------------------	---------

Personal Service	184,788
------------------------	---------

Expense and Equipment	<u>41,776</u>
-----------------------------	---------------

From Federal Funds	226,564
--------------------------	---------

For consumer and family directed supports/in-home services/choices for families

From General Revenue Fund	17,938,495
---------------------------------	------------

For the purpose of funding programs and in-home family directed services
for persons with autism and their families
From General Revenue Fund 9,621,176

For services for children who are clients of the Department of Social Services
From Mental Health Interagency Payments Fund 5,443,549E

For the purpose of funding youth services
From Mental Health Interagency Payment Fund 550,000

For SB 40 Board Tax Funds to be used as match for MO HealthNet initiatives
for clients of the division
From DMH Local Tax Matching Fund 12,853,770E
Total (Not to exceed 15.55 F.T.E.) \$492,143,314

SECTION 10.415.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding community support staff

Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund \$7,756,056
From Federal Funds 11,836,503
Total (Not to exceed 435.92 F.T.E.) \$19,592,559

SECTION 10.420.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding developmental disabilities services

Personal Service \$372,505
Expense and Equipment 1,187,593

From Federal Funds (Not to exceed 7.98 F.T.E.) \$1,560,098

SECTION 10.425.— There is transferred out of the State Treasury from the

General Revenue Fund to the ICF/MR Reimbursement Allowance Fund

From General Revenue Fund \$443,483E

SECTION 10.430.— There is transferred out of the State Treasury from the

ICF/MR Reimbursement Allowance Fund to the General Revenue Fund

as a result of recovering the ICF/MR Reimbursement Allowance Fund

From ICF/MR Reimbursement Allowance Fund \$2,800,000E

There is transferred out of the State Treasury from the ICF/MR Reimbursement
Allowance Fund to Federal Funds

From ICF/MR Reimbursement Allowance Fund 4,742,365E
Total \$7,542,365

SECTION 10.500.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Albany Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$846,854
From Federal Funds	<u>16,241</u>
Total (Not to exceed 19.71 F.T.E.)	\$863,095

SECTION 10.505.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Central Missouri Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$987,227
From Federal Funds	<u>47,836</u>
Total (Not to exceed 28.56 F.T.E.)	\$1,035,063

SECTION 10.510.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Hannibal Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$1,023,855
From Federal Funds	<u>61,327</u>
Total (Not to exceed 21.70 F.T.E.)	\$1,085,182

SECTION 10.515.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Joplin Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund (Not to exceed 22.78 F.T.E.)	\$1,109,038
--------------------------------------------------------------	-------------

SECTION 10.520.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Kansas City Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$1,694,002
From Federal Funds	<u>81,643</u>
Total (Not to exceed 36.87 F.T.E.)	\$1,775,645

SECTION 10.525.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding the Kirksville Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund (Not to exceed 14.79 F.T.E.)	\$720,039
--------------------------------------------------------------	-----------

SECTION 10.530.— To the Department of Mental Health
 For the Division of Developmental Disabilities
 For the purpose of funding the Poplar Bluff Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund (Not to exceed 19.40 F.T.E.) \$842,062

SECTION 10.535.— To the Department of Mental Health
 For the Division of Developmental Disabilities
 For the purpose of funding the Rolla Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund \$848,579
 From Federal Funds 127,698
 Total (Not to exceed 25.20 F.T.E.) \$976,277

SECTION 10.540.— To the Department of Mental Health
 For the Division of Developmental Disabilities
 For the purpose of funding the Sikeston Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund (Not to exceed 19.25 F.T.E.) \$892,205

SECTION 10.545.— To the Department of Mental Health
 For the Division of Developmental Disabilities
 For the purpose of funding the Springfield Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund (Not to exceed 25.48 F.T.E.) \$1,227,794

SECTION 10.550.— To the Department of Mental Health
 For the Division of Developmental Disabilities
 For the purpose of funding the St. Louis Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund \$3,140,858
 From Federal Funds 92,395
 Total (Not to exceed 84.80 F.T.E.) \$3,233,253

SECTION 10.555.— To the Department of Mental Health
 For the Division of Developmental Disabilities
 For the purpose of funding Bellefontaine Habilitation Center
 Personal Service and/or Expense and Equipment provided that not more
 than fifteen percent (15%) may be spent on the Purchase of Community
 Services, including transitioning clients to the community or other state-
 operated facilities, and that not more than twenty percent (20%) flexibility
 is allowed between personal service and expense and equipment

From General Revenue Fund	\$14,731,644
From Federal Funds	1,013,815

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	888,826
From Federal Funds	38,167
Total (Not to exceed 455.13 F.T.E.)	\$16,672,452

SECTION 10.560.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding Higginsville Habilitation Center

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$8,592,135
From Federal Funds	281,677

For Northwest Community Services

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	2,579,132
From Federal Funds	1,399,421

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	380,162
From Federal Funds	90,992
Total (Not to exceed 456.65 F.T.E.)	\$13,323,519

SECTION 10.565.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding Marshall Habilitation Center

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$9,046,313
From Federal Funds	11,359,138

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	710,601
From Federal Funds	53,935
Total (Not to exceed 673.59 F.T.E.)	\$21,169,987

SECTION 10.570.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding Nevada Habilitation Center

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$7,875,867
From Federal Funds	833,918

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	8,966
Total (Not to exceed 268.29 F.T.E.)	\$8,718,751

SECTION 10.575.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding St. Louis Developmental Disabilities Treatment Center

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$6,334,450
From Federal Funds	12,073,264
Total (Not to exceed 617.58 F.T.E.)	\$18,407,714

SECTION 10.580.— To the Department of Mental Health

For the Division of Developmental Disabilities

For the purpose of funding Southeast Missouri Residential Services

Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$4,822,693
From Federal Funds	783,283

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	182,303
From Federal Funds	<u>82,281</u>
Total (Not to exceed 200.51 F.T.E.)	\$5,870,560

SECTION 10.600.— To the Department of Health and Senior Services

For the Office of the Director

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$899,342
From Federal Funds	<u>2,130,890</u>
Total (Not to exceed 52.79 F.T.E.)	\$3,030,232

SECTION 10.605.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$532,981
---------------------------------	-----------

Personal Service

From Federal Funds	2,374,849
From Missouri Public Health Services Fund	129,417

Expense and Equipment

From Federal and Other Funds	<u>3,238,011</u>
Total (Not to exceed 73.73 F.T.E.)	\$6,275,258

SECTION 10.610.— There is transferred out of the State Treasury from the

Health Initiatives Fund to the Health Access Incentive Fund

From Health Initiatives Fund	\$2,241,003
------------------------------------	-------------

SECTION 10.615.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding the payment of refunds set off against debts in accordance with Section 143.786, RSMo

From Debt Offset Escrow Fund	\$15,000E
------------------------------------	-----------

SECTION 10.620.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of making refund payments

From General Revenue Fund	\$1E
From Federal and Other Funds	<u>44,736E</u>
Total	\$44,737

SECTION 10.625.— To the Department of Health and Senior Services
For the Division of Administration

For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds

From Federal Funds	\$3,000,001E
From Department of Health - Donated Fund	<u>450,000E</u>
Total	\$3,450,001

SECTION 10.630.— To the Department of Health and Senior Services
For the Division of Administration

For contributions from federal and other sources that are deposited in the State Treasury for use by the Department of Health and Senior Services to furnish aid and relief pursuant to Section 192.326, RSMo

From DHSS Disaster Fund	\$1E
-------------------------------	------

SECTION 10.635.— To the Department of Health and Senior Services
For the Division of Community and Public Health

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$6,183,442
From Federal Funds	19,182,744
From Health Initiatives Fund	1,575,242

Personal Service	
From Health Access Incentive Fund	94,028

Expense and Equipment	
From Governor's Council on Physical Fitness Institution Gift Trust Fund	50,000

Personal Service	72,526
Expense and Equipment	<u>16,900</u>

From Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund	89,426
------------------------------------------------------------------------------------------	--------

Personal Service	196,479
Expense and Equipment	<u>68,532</u>
From Hazardous Waste Fund	265,011

Personal Service	108,540
Expense and Equipment	<u>82,010</u>
From Organ Donor Program Fund	190,550

Personal Service	325,199
Expense and Equipment	<u>116,507</u>
From Missouri Public Health Services Fund	441,706

Personal Service	360,142
Expense and Equipment	<u>275,000E</u>
From Department of Health and Senior Services Document Services Fund	635,142

Personal Service	174,182
Expense and Equipment	<u>633,089</u>
From Department of Health - Donated Fund	807,271

Personal Service	73,721
Expense and Equipment	<u>28,756</u>
From Putative Father Registry Fund	<u>102,477</u>
Total (Not to exceed 597.10 F.T.E.)	\$29,617,039

SECTION 10.640.— To the Department of Health and Senior Services
 For the Division of Community and Public Health
 For the purpose of funding core public health functions and related expenses
 From General Revenue Fund \$9,018,949

SECTION 10.645.— To the Department of Health and Senior Services
 For the Division of Community and Public Health
 For the purpose of funding community health programs and related expenses
 From General Revenue Fund \$8,705,753
 From Federal Funds 43,901,547E
 From Health Initiatives Fund 4,838,564
 From Organ Donor Program Fund 100,000
 From C & M Smith Memorial Endowment Fund 35,000
 From Crippled Children Fund 30,000
 From Missouri Lead Abatement Loan Fund 76,000
 From Missouri Public Health Services Fund 1,019,750
 From Head Injury Fund 1,149,900
 Total \$59,856,514

SECTION 10.650.— To the Department of Health and Senior Services
 For the Division of Community and Public Health
 For the purpose of funding supplemental nutrition programs
 From Federal Funds \$167,828,610E

SECTION 10.655.— To the Department of Health and Senior Services
 For the Division of Community and Public Health
 For the purpose of funding alternatives to abortion services for women at or below 200 percent of Federal Poverty Level, consisting of services or counseling offered to a pregnant woman and continuing for one year thereafter, to assist her in carrying her unborn child to term instead of having an abortion, and to assist her in caring for her dependent child or placing her child for adoption, including, but not limited to the following: prenatal care; medical and mental health care; parenting skills; drug and alcohol testing and treatment; child care; newborn or infant care; housing utilities; educational services; food, clothing, and supplies relating to pregnancy, newborn care, and parenting; adoption assistance; job training and placement; establishing and promoting responsible paternity; ultrasound services; case management; domestic abuse protection; and transportation. Actual provisions and delivery

of such services shall be dependent on client needs and not otherwise prioritized by the department. Such services shall be available only during pregnancy and continuing for one year thereafter, and shall exclude any family planning services. None of these funds shall be expended to perform or induce, assisting the performing or inducing of, or refer for, abortions; and none of these funds shall be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of, or refer for, abortions

From General Revenue Fund \$1,759,512

SECTION 10.660.— To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding the Primary Care Resource Initiative Program
(PRIMO), Financial Aid to Medical Students, and Loan Repayment
Programs

From Federal Funds 174,446
From Health Access Incentive Fund 2,021,500
From Department of Health - Donated Fund 839,525
From Professional and Practical Nursing Student Loan and Nurse Loan
Repayment Fund 499,752
From Health Care Access Fund 1E
Total \$3,535,224

SECTION 10.665.— To the Department of Health and Senior Services
For the Division of Community and Public Health
For the Office of Minority Health

For the purpose of funding program operations and support
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment
From General Revenue Fund \$392,576
From Federal Funds 236,890
Total (Not to exceed 7.73 F.T.E.) \$629,466

SECTION 10.670.— To the Department of Health and Senior Services
For the Division of Community and Public Health
For the Center for Emergency Response and Terrorism

Personal Service \$3,148,731
Expense and Equipment and Program Distribution 20,179,535
From Federal Funds (Not to exceed 63.01 F.T.E.) \$23,328,266

SECTION 10.675.— To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding the State Public Health Laboratory

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment
From General Revenue Fund \$1,943,520
From Federal Funds 1,802,215
From Other Funds 5,420,290
Total (Not to exceed 97.01 F.T.E.) \$9,166,025

SECTION 10.680.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$7,607,952
From Federal Funds	<u>10,006,398</u>
Total (Not to exceed 449.59 F.T.E.)	\$17,614,350

SECTION 10.685.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of providing naturalization assistance to refugees and/or

legal immigrants who: have resided in Missouri more than five years, are unable to benefit or attend classroom instruction, and who require special assistance to successfully attain the requirements to become a citizen. Services may include direct tutoring, assistance with identifying and completing appropriate waiver requests to the Immigration and Customs Enforcement agency, and facilitating proper documentation. The department shall award a contract under this section to a qualified not for profit organization which can demonstrate its ability to work with this population. A report shall be compiled for the general assembly evaluating the program's effectiveness in helping senior refugees and immigrants in establishing citizenship and their ability to qualify individuals for Medicare

From General Revenue Fund	\$200,000
---------------------------------	-----------

SECTION 10.690.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding non-MO HealthNet reimbursable senior and disability

programs, provided that one hundred percent (100%) flexibility is allowed between the non-MO HealthNet reimbursable senior and disability programs general revenue appropriation and the non-MO HealthNet, consumer-directed care program general revenue appropriation

From General Revenue Fund	\$1,978,722
From Federal Funds	<u>1,667,028</u>

For the purpose of funding non-MO HealthNet, consumer directed in-home services

From General Revenue Fund	<u>1,080,796</u>
Total	\$4,726,546

SECTION 10.695.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding respite care, homemaker chore, personal care, adult day care, AIDS, children's waiver services, home-delivered meals, other related services, and program management under the MO HealthNet fee-for-service and managed care programs. Provided that individuals eligible for or receiving nursing home care must be given the opportunity to have those MO HealthNet dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 19 CSR 30 81.030 and further be allowed to choose

the personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed MO HealthNet State Plan. And further provided that individuals eligible for the MO HealthNet Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet needs as determined by 19 CSR 30 81.030; and also be allowed to have their MO HealthNet funds follow them to the extent necessary to meet their unmet needs whichever option they choose. This language does not create any entitlements not established by statute

From General Revenue Fund	\$186,238,071
From Federal Funds	325,334,707E
From In-Home Services Gross Receipts Tax Fund	<u>1E</u>
Total	\$511,572,779

SECTION 10.700.— There is transferred out of the State Treasury from the In-Home Services Gross Receipts Tax Fund to the General Revenue Fund as a result of recovering the In-Home Services Gross Receipts Tax

From In-Home Services Gross Receipts Tax Fund	\$1E
---------------------------------------------------------	------

SECTION 10.705.— There is transferred out of the State Treasury from the General Revenue Fund to the In-Home Services Gross Receipts Tax Fund

From General Revenue Fund	\$1E
-------------------------------------	------

SECTION 10.710.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding Alzheimer's grants

From General Revenue Fund	\$150,000
From Federal Funds	<u>132,835</u>
Total	\$282,835

SECTION 10.715.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding Home and Community Services grants, including funding for meals to be distributed to each Area Agency on Aging in proportion to the actual number of meals served during the preceding fiscal year, provided that at least \$500,000 of existing General Revenue be used for non-MO HealthNet meals to be distributed to each Area Agency on Aging in proportion to the actual number of meals served during the preceding fiscal year

From General Revenue Fund	\$9,480,540
From Federal Funds	31,536,227E
From Elderly Home-Delivered Meals Trust Fund	<u>100,000</u>
Total	\$41,116,767

SECTION 10.720.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For distributions to Area Agencies on Aging pursuant to the Older Americans Act and related programs

From General Revenue Fund	\$1,447,813
-------------------------------------	-------------

SECTION 10.725.— To the Department of Health and Senior Services
 For the Division of Senior and Disability Services
 For the purpose of funding Naturally Occurring Retirement Communities
 From General Revenue Fund \$127,500

SECTION 10.730.— To the Department of Health and Senior Services
 For the Division of Regulation and Licensure
 For the purpose of funding program operations and support
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund \$9,523,206
 From Federal Funds 11,915,047
 From Nursing Facility Quality of Care Fund 2,159,158

 Personal Service 72,171
 Expense and Equipment 11,450
 From Health Access Incentive Fund 83,621

 Personal Service 61,387
 Expense and Equipment 13,560
 From Mammography Fund 74,947

 Personal Service 206,785
 Expense and Equipment 57,561
 From Early Childhood Development, Education and Care Fund 264,346

For nursing home quality initiatives
 From Nursing Facility Federal Reimbursement Allowance Fund 725,000
 Total (Not to exceed 490.69 F.T.E.) \$24,745,325

SECTION 10.735.— To the Department of Health and Senior Services
 For the Division of Regulation and Licensure
 For the purpose of funding activities to improve the quality of childcare,
 increase the availability of early childhood development programs,
 before- and after-school care, in-home services for families with
 newborn children, and for general administration of the program
 From Federal Funds \$711,675
 From Early Childhood Development, Education and Care Fund 728,740
 Total \$1,440,415

SECTION 10.740.— To the Department of Health and Senior Services
 For the Division of Regulation and Licensure
 For the purpose of funding program operations and support for the
 Missouri Health Facilities Review Committee
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund (Not to exceed 2.00 F.T.E.) \$135,045

DEPARTMENT OF MENTAL HEALTH TOTALS

General Revenue Fund	\$575,426,388
Federal Funds	578,775,972
Other Funds	<u>44,827,524</u>
Total	\$1,199,029,884

DEPARTMENT OF HEALTH AND SENIOR SERVICES TOTALS

General Revenue Fund	\$247,405,720
Federal Funds	647,854,155
Other Funds	<u>25,644,597</u>
Total	\$920,904,472

Approved June 17, 2010

HB 2011 [CCS SCS HCS HB 2011]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF SOCIAL SERVICES.

AN ACT to appropriate money for the expenses, grants, and distributions of the Department of Social Services and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011 as follows:

SECTION 11.005.— To the Department of Social Services

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$326,968
From Federal Funds	11,832
From Child Support Enforcement Collections Fund	<u>55,693</u>
Total (Not to exceed 6.00 F.T.E.)	\$394,493

SECTION 11.010.— To the Department of Social Services

For the Office of the Director

For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall

be expended, in writing, prior to the use of said funds
 From Federal and Other Funds \$5,954,958E

SECTION 11.015.— To the Department of Social Services

For the Office of the Director

For the Human Resources Center

Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund \$298,935
 From Federal Funds 227,144
 Total (Not to exceed 11.52 F.T.E.) \$526,079

SECTION 11.020.— To the Department of Social Services

For the Office of the Director

For the purpose of funding field and line training

Expense and Equipment

From General Revenue Fund \$117,835
 From Federal Funds 131,840
 Total \$249,675

SECTION 11.025.— To the Department of Social Services

For the Division of Finance and Administrative Services

Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund \$2,408,991
 From Federal Funds 1,282,679
 From Department of Social Services Administrative Trust Fund 4,283
 From Child Support Enforcement Collections Fund 60,849

For the purpose of funding the centralized inventory system, for reimbursable
 goods and services provided by the department, and for related equipment
 replacement and maintenance expenses

From Department of Social Services Administrative Trust Fund 5,447,752
 Total (Not to exceed 81.50 F.T.E.) \$9,204,554

SECTION 11.030.— To the Department of Social Services

For the Division of Finance and Administrative Services

For the payment of fees to contractors who engage in revenue

maximization projects on behalf of the Department of Social Services

From Federal Funds \$250,000E

SECTION 11.035.— To the Department of Social Services

For the Division of Finance and Administrative Services

For the purpose of funding the receipt and disbursement of refunds and
 incorrectly deposited receipts to allow the over-collection of accounts
 receivables to be paid back to the recipient

From Federal and Other Funds \$2,500,000E

SECTION 11.040.— To the Department of Social Services

For the Division of Finance and Administrative Services

For the purpose of funding payments to counties and the City of St. Louis
toward the care and maintenance of each delinquent or dependent
child as provided in Section 211.156, RSMo
From General Revenue Fund \$2,100,000

SECTION 11.045.— To the Department of Social Services

For the Division of Legal Services
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment
From General Revenue Fund \$1,613,133
From Federal Funds 3,675,444
From Third Party Liability Collections Fund 668,140
From Child Support Enforcement Collections Fund 166,003
Total (Not to exceed 125.97 F.T.E.) \$6,122,720

SECTION 11.050.— To the Department of Social Services

For the Family Support Division
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment
From General Revenue Fund \$658,456
From Federal Funds 18,834,215
From Child Support Enforcement Collections Fund 1,497,550
Total (Not to exceed 167.95 F.T.E.) \$20,990,221

SECTION 11.055.— To the Department of Social Services

For the Family Support Division
For the income maintenance field staff and operations
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment
From General Revenue Fund \$22,490,799
From Federal Funds 63,057,729
From Child Support Enforcement Collections Fund 598,928
From Health Initiatives Fund 792,579
Total (Not to exceed 2,622.15 F.T.E.) \$86,940,035

SECTION 11.060.— To the Department of Social Services

For the Family Support Division
For income maintenance and child support staff training
From General Revenue Fund \$245,078
From Federal Funds 136,449
Total \$381,527

SECTION 11.065.— To the Department of Social Services

For the Family Support Division
For the purpose of funding the electronic benefit transfers (EBT) system
Expense and Equipment
From General Revenue Fund \$3,754,203
From Federal Funds 3,341,516
Total \$7,095,719

SECTION 11.070.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the receipt of funds from the Polk County
and Bolivar Charitable Trust for the exclusive benefit and use of
the Polk County Office

From Family Support and Children's Divisions Donations Fund \$10,000E

SECTION 11.075.— To the Department of Social Services

For the Family Support Division

For the purpose of funding contractor, hardware, and other costs associated
with planning, development, and implementation of a Family
Assistance Management Information System (FAMIS)

From General Revenue Fund \$1,231,547

From Federal Funds 3,222,371

Total \$4,453,918

SECTION 11.080.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Community Partnerships

Personal Service

From General Revenue Fund \$93,124

For grants and contracts to Community Partnerships and other community
initiatives and related expenses

From General Revenue Funds 523,800

From Federal Funds 7,483,799

For Missouri Mentoring Partnership

From General Revenue Fund 600,000

From Federal Funds 785,000For the purpose of funding a program for adolescent boys with the goal
of preventing teen pregnanciesFrom Federal Funds 230,400

Total (Not to exceed 2.00 F.T.E.) \$9,716,123

SECTION 11.085.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the Family Nutrition Education Program

From Federal Funds 9,294,560

SECTION 11.090.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the payment of Temporary Assistance for Needy
Families (TANF) benefits, and for a transitional benefit and for work
support programs to help increase TANF work participation provided
that total funding herein is sufficient to fund TANF benefits

From General Revenue Fund \$8,358,297

From Federal Funds 115,445,760E

Total \$123,804,057

SECTION 11.095.— To the Department of Social Services
For the Family Support Division
For the purpose of funding supplemental payments to aged or disabled persons
From General Revenue Fund \$61,665

SECTION 11.100.— To the Department of Social Services
For the Family Support Division
For the purpose of funding nursing care payments to aged, blind, or disabled
persons, and for personal funds to recipients of Supplemental Nursing
Care payments as required by Section 208.030, RSMo
From General Revenue Fund \$25,807,581

SECTION 11.105.— To the Department of Social Services
For the Family Support Division
For the purpose of funding Blind Pension and supplemental payments to
blind persons
From Blind Pension Fund \$31,465,434

SECTION 11.110.— To the Department of Social Services
For the Family Support Division
For the purpose of funding benefits and services as provided by the
Indochina Migration and Refugee Assistance Act of 1975 as amended
From Federal Funds \$3,808,853

SECTION 11.115.— To the Department of Social Services
For the Family Support Division
For the purpose of funding community services programs provided by
Community Action Agencies, including programs to assist the
homeless, under the provisions of the Community Services Block Grant
From Federal Funds \$19,144,171

SECTION 11.120.— To the Department of Social Services
For the Family Support Division
For the purpose of funding grants for local initiatives to assist the homeless
From Federal Funds \$500,000

SECTION 11.125.— To the Department of Social Services
For the Family Support Division
For the purpose of funding the Emergency Shelter Grant Program
From Federal Funds \$1,880,000

SECTION 11.130.— To the Department of Social Services
For the Family Support Division
For the purpose of funding the Surplus Food Distribution Program and the
receipt and disbursement of Donated Commodities Program payments
From Federal Funds \$1,500,000

SECTION 11.135.— To the Department of Social Services
For the Family Support Division
For the purpose of funding the Low-Income Home Energy Assistance Program
From Federal Funds (Not to exceed 6.50 F.T.E.) \$40,826,051E

SECTION 11.140.— To the Department of Social Services

For the Family Support Division

For the purpose of funding services and programs to assist victims of
domestic violence

From General Revenue Fund	\$4,750,000
From Federal Funds	<u>1,687,653</u>
Total	\$6,437,653

SECTION 11.145.— To the Department of Social Services

For the Family Support Division

For the purpose of funding administration of blind services

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$30,201
From Federal Funds	3,626,073
From Blind Pension Fund	<u>1,109,455</u>
Total (Not to exceed 111.07 F.T.E.)	\$4,765,729

SECTION 11.150.— To the Department of Social Services

For the Family Support Division

For the purpose of funding services for the visually impaired

From Federal Funds	\$6,372,075
From Blind Pension Fund	1,737,081
From Family Support and Children's Divisions Donations Fund	99,995
From Blindness Education, Screening and Treatment Program Fund	<u>349,000</u>
Total	\$8,558,151

SECTION 11.155.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Child Support Enforcement field staff and operations

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$2,570,922
From Federal Funds	23,882,571
From Child Support Enforcement Collections Fund	<u>8,521,888</u>
Total (Not to exceed 852.24 F.T.E.)	\$34,975,381

SECTION 11.160.— To the Department of Social Services

For the Family Support Division

For the purpose of funding reimbursement to counties and the City of St.

Louis and contractual agreements with local governments providing
child support enforcement services and for incentive payments to
local governments

From General Revenue Fund	\$2,449,994
From Federal Funds	14,886,582E
From Child Support Enforcement Collections Fund	<u>1,263,424</u>
Total	\$18,600,000

SECTION 11.165.— To the Department of Social ServicesFor the Family Support Division

For the purpose of funding payments to the federal government for reimbursement of federal Temporary Assistance for Needy Families payments, incentive payments to other states, refunds of bonds, refunds of support payments or overpayments, and distributions to families

From Federal Funds	\$31,500,000E
From Debt Offset Escrow Fund	<u>9,000,000E</u>
Total	\$40,500,000

SECTION 11.170.— There is transferred out of the State Treasury from the Debt Offset Escrow Fund to the Department of Social Services Federal and Other Fund and/or the Child Support Enforcement Collections Fund

From Debt Offset Escrow Fund	\$700,000E
------------------------------	------------

SECTION 11.175.— To the Department of Social Services
For the Children's Division

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$879,725
From Federal Funds	5,818,665
From Early Childhood Development, Education and Care Fund	56,139

Expense and Equipment

From Third Party Liability Collections Fund	<u>50,000</u>
Total (Not to exceed 99.80 F.T.E.)	\$6,804,529

SECTION 11.180.— To the Department of Social Services
For the Children's Division

For the Children's Division field staff and operations

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	\$32,299,834
From Federal Funds	47,047,023
From Health Initiatives Fund	<u>96,866</u>
Total (Not to exceed 2,028.73 F.T.E.)	\$79,443,723

SECTION 11.185.— To the Department of Social Services
For the Children's Division

For Children's Division staff training

From General Revenue Fund	\$840,356
---------------------------	-----------

From Federal Funds	<u>384,041</u>
Total	\$1,224,397

SECTION 11.190.— To the Department of Social Services
For the Children's Division

For the purpose of funding children's treatment services provided that such programs are in existence as of the effective date of this section including, but not limited to, home-based services, day treatment services, preventive services, child care, family reunification services,

or intensive in-home services
 From General Revenue Fund \$6,810,191
 From Federal Funds 5,166,047

For the purpose of funding crisis care
 From General Revenue Fund 1,250,000
 From Federal Funds 1E
 Total \$13,226,239

SECTION 11.195.— To the Department of Social Services

For the Children's Division

For the purpose of funding grants to local community-based programs to
 strengthen the child welfare system locally to prevent child abuse
 and neglect and divert children from entering into the custody of
 the Children's Division
 From General Revenue Fund \$1,400,000

SECTION 11.200.— To the Department of Social Services

For the Children's Division

For the purpose of funding placement costs including foster care payments;
 related services; expenses related to training of foster parents; residential
 treatment placements and therapeutic treatment services; and for the
 diversion of children from inpatient psychiatric treatment and services
 provided through comprehensive, expedited permanency systems of
 care for children and families
 From General Revenue Fund \$56,169,636
 From Federal Funds 32,677,198

For the purpose of funding foster care tuition waivers
 From General Revenue Fund 100,000
 Total \$88,946,834

SECTION 11.215.— To the Department of Social Services

For the Children's Division

For the purpose of providing comprehensive case management contracts
 through community-based organizations as described in Section 210.112,
 RSMo. The purpose of these contracts shall be to provide a system of
 care for children living in foster care, independent living, or residential
 care settings. Services eligible under this provision may include, but are
 not limited to, case management, foster care, residential treatment,
 intensive in-home services, family reunification services, and specialized
 recruitment and training of foster care families
 From General Revenue Fund \$14,529,210
 From Federal Funds 9,827,856
 Total \$24,357,066

SECTION 11.220.— To the Department of Social Services

For the Children's Division

For the purpose of funding Adoption and Guardianship subsidy payments
 and related services
 From General Revenue Fund \$57,907,371

From Federal Funds	23,831,993
Total	<u>\$81,739,364</u>

SECTION 11.225.— To the Department of Social Services

For the Children's Division

For the purpose of funding Adoption Resource Centers

From General Revenue Fund	\$100,000
From Federal Funds	<u>50,000</u>
Total	<u>\$150,000</u>

SECTION 11.230.— To the Department of Social Services

For the Children's Division

For the purpose of funding independent living placements and transitional living payment services

From General Revenue Fund	\$1,690,790
From Federal Funds	<u>4,423,228</u>
Total	<u>\$6,114,018</u>

SECTION 11.235.— To the Department of Social Services

For the Children's Division

For the purpose of funding children's treatment services; alternative care placement services; adoption subsidy services; independent living services; psychiatric diversion services and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund	\$7,422,612
From Federal Funds	<u>6,773,261</u>
Total	<u>\$14,195,873</u>

SECTION 11.240.— To the Department of Social Services

For the Children's Division

For the purpose of funding Regional Child Assessment Centers

From General Revenue Fund	\$1,498,952
From Federal Funds	<u>800,000</u>
Total	<u>\$2,298,952</u>

SECTION 11.245.— To the Department of Social Services

For the Children's Division

For the purpose of funding residential placement payments to counties for children in the custody of juvenile courts

From Federal Funds	\$400,000
--------------------------	-----------

SECTION 11.250.— To the Department of Social Services

For the Children's Division

For the purpose of funding the Child Abuse and Neglect Prevention Grant and Children's Justice Act Grant

From Federal Funds	\$188,316
--------------------------	-----------

SECTION 11.255.— To the Department of Social Services

For the Children's Division

For the purpose of funding transactions involving personal funds of children in the custody of the Children's Division

From Alternative Care Trust Fund \$12,000,000E

SECTION 11.260.— To the Department of Social Services

For the Children's Division

For the purpose of funding child care services, the general administration
of the programs and to support the Educare Program

From General Revenue Fund \$62,686,902

From Federal Funds 111,402,702

From Early Childhood Development, Education and Care Fund 1,947,997

For the purpose of payments to accredited child care providers pursuant
to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund 3,074,500

For the purpose of funding early childhood start-up and expansion grants
pursuant to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund 3,689,400

For the purpose of funding early childhood development, education, and
care programs for low-income families pursuant to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund 3,074,500

For the purpose of funding certificates to low-income, at-home
families pursuant to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund 3,074,500

Total \$188,950,501

SECTION 11.265.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding Central Office and Regional Offices

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund \$1,405,817

From Federal Funds 661,878

Total (Not to exceed 41.33 F.T.E.) \$2,067,695

SECTION 11.270.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding treatment services, including foster care
and contractual payments

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund \$19,488,714

From Federal Funds 28,419,367

From DOSS Educational Improvement Fund 6,603,082

From Health Initiatives Fund 135,503

Expense and Equipment

From Youth Services Products Fund 1E

For the purpose of paying overtime to nonexempt state employees as required by Section 105.935, RSMo, and/or for otherwise authorized personal service expenditures in lieu of such overtime payments	
From General Revenue Fund	<u>1,110,391</u>
Total (Not to exceed 1,334.81 F.T.E.)	\$55,757,058

SECTION 11.275.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding incentive payments to counties for community-based
treatment programs for youth

From General Revenue Fund	\$3,579,486
From Gaming Commission Fund	<u>500,000</u>
Total	\$4,079,486

SECTION 11.400.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding administrative services

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund	\$4,540,806
From Federal Funds	9,672,394
From Federal Reimbursement Allowance Fund	100,133
From Pharmacy Reimbursement Allowance Fund	25,476
From Health Initiatives Fund	335,180
From Nursing Facility Quality of Care Fund	90,794
From Third Party Liability Collections Fund	867,770
From Missouri Rx Plan Fund	787,859
From Ambulance Service Reimbursement Allowance Fund	<u>20,685</u>
Total (Not to exceed 268.11 F.T.E.)	\$16,441,097

SECTION 11.405.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding health care technology projects and initiatives
to improve the delivery of care, reduce administrative burdens, and
reduce waste, fraud, and abuse

From Health Care Technology Fund	\$2,208,788
From Federal Funds	<u>2,500,000</u>
Total	\$4,708,788

SECTION 11.410.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding clinical services management related to the
administration of the MO HealthNet Pharmacy fee-for-service and
managed care programs and administration of the Missouri Rx Plan

From General Revenue Fund	\$485,498
From Federal Funds	12,215,288
From Third Party Liability Collections Fund	924,911
From Health Care Technology Fund	2,187,500
From Missouri Rx Plan Fund	<u>4,160,894</u>
Total	\$19,974,091

SECTION 11.415.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding women and minority health care outreach programs

From General Revenue Fund \$546,125

From Federal Funds 568,625

Total \$1,114,750

SECTION 11.420.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding fees associated with third-party collections

and other revenue maximization cost avoidance fees

From Federal Funds \$1,500,000E

From Third Party Liability Collections Fund 1,500,000E

Total \$3,000,000

SECTION 11.425.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding the operation of the information systems

From General Revenue Fund \$5,565,516

From Federal Funds 21,629,251

For the purpose of funding the modernization of the Medicaid Management

Information System (MMIS) and the operation of the information
systems

From Federal Funds 22,667,033

From Health Care Technology Fund 3,835,822

Total \$53,697,622

SECTION 11.430.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding pharmaceutical payments and program expenses

under the MO HealthNet and Missouri Rx Plan authorized by Sections
208.780 through 208.798, RSMo and for Medicare Part D Clawbackpayments and for administration of these programs. The line item
appropriations within this section may be used for any other purposefor which line item funding is appropriated within this section provided
that \$8,239,495 of the appropriations within this section shall be used

to fund smoking cessation services, based on evidence based practices,

to qualified participants in the MO HealthNet program. The division

shall devise a program of prior-authorization to ensure such services

are appropriately administered in the most cost-effective manner

possible. The division shall also document the benefits, the cost-

savings, and the reduction in needed services attributable to such

program. The division shall report to the House Budget Chairman

and Senate Appropriations Chairman the findings of these analyses

and shall endeavor to establish a return on investment in the first year

and each subsequent year thereafter for such program

For the purpose of funding pharmaceutical payments under the MO

HealthNet fee-for-service and managed care programs and for the

purpose of funding professional fees for pharmacists and for a

comprehensive chronic care risk management program

From General Revenue Fund \$109,973,887

From Federal Funds	558,933,562
From Life Sciences Research Trust Fund	35,556,250
From Pharmacy Rebates Fund	104,155,927E
From Third Party Liability Collections Fund	5,252,468
From Pharmacy Reimbursement Allowance Fund	55,553,508E
From Health Initiatives Fund	969,293
From Healthy Families Trust Fund	1,041,034
From Premium Fund	3,800,000

For the purpose of funding Medicare Part D Clawback payments and for funding MO HealthNet pharmacy payments as authorized by the provisions of Section 11.430

From General Revenue Fund	121,061,000
From Missouri RX Plan Fund	6,500,000E
From Federal Funds	1E

For the purpose of funding pharmaceutical payments under the Missouri Rx Plan authorized by Sections 208.780 through 208.798, RSMo

From Missouri RX Plan Fund	5,781,772E
From Healthy Families Trust Fund	13,820,394
Total	\$1,022,399,096

SECTION 11.435.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding Pharmacy Reimbursement Allowance payments as provided by law

From Pharmacy Reimbursement Allowance Fund	\$90,308,926E
--------------------------------------------	---------------

SECTION 11.440.— There is transferred out of the State Treasury from the General Revenue Fund to the Pharmacy Reimbursement Allowance Fund

From General Revenue Fund	\$30,000,000E
---------------------------	---------------

SECTION 11.445.— There is transferred out of the State Treasury from the Pharmacy Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Pharmacy Reimbursement Allowance Fund

From Pharmacy Reimbursement Allowance Fund	\$30,000,000E
--------------------------------------------	---------------

SECTION 11.450.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding physician services and related services including, but not limited to, clinic and podiatry services, telemedicine services, physician-sponsored services and fees, laboratory and x-ray services, and family planning services under the MO HealthNet fee-for-service and managed care programs, and for a comprehensive chronic care risk management program and Major Medical Prior Authorization

From General Revenue Fund	\$206,368,957
From Federal Funds	384,007,708
From Third Party Liability Collections Fund	1,906,107
From Health Initiatives Fund	1,247,544

From Healthy Families Trust Fund	1,041,034
Total	<u>\$594,571,350</u>

SECTION 11.455.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding dental services under the MO HealthNet
fee-for-service and managed care programs

From General Revenue Fund	\$6,300,475
From Federal Funds	12,693,950
From Health Initiatives Fund	71,162
From Healthy Families Trust Fund	<u>848,773</u>
Total	<u>\$19,914,360</u>

SECTION 11.460.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding payments to third-party insurers, employers,
or policyholders for health insurance

From General Revenue Fund	\$67,615,042
From Federal Funds	<u>122,788,916</u>
Total	<u>\$190,403,958</u>

SECTION 11.465.— To the Department of Social Services

For the MO HealthNet Division

For funding long-term care services

For the purpose of funding care in nursing facilities or other long-term
care services under the MO HealthNet fee-for-service and managed
care programs and for contracted services to develop model policies
and practices that improve the quality of life for long-term care residents

From General Revenue Fund	\$144,053,995
From Federal Funds	370,084,077
From Uncompensated Care Fund	58,516,478
From Nursing Facility Federal Reimbursement Allowance Fund	9,134,756
From Healthy Families Trust Fund	17,973
From Third Party Liability Collections Fund	<u>2,592,981</u>

For the purpose of funding home health for the elderly, or other long-term
care services under the MO HealthNet fee-for-service and managed
care programs

From General Revenue Fund	2,251,638
From Federal Funds	4,672,954
From Health Initiatives Fund	<u>159,305</u>

For the purpose of funding Program for All-Inclusive Care for the Elderly,
or other long-term care services under the MO HealthNet fee-for-service
and managed care programs

From General Revenue Fund	1,464,091
From Federal Funds	<u>3,149,484</u>
Total	<u>\$596,097,732</u>

SECTION 11.470.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding all other non-institutional services provided that

such programs and services are in existence as of the effective date of this section including, but not limited to, rehabilitation, optometry, audiology, ambulance, non-emergency medical transportation, durable medical equipment, and eyeglasses under the MO HealthNet fee-for-service and managed care programs, and for rehabilitation services provided by residential treatment facilities as authorized by the Children's Division for children in the care and custody of the Children's Division

From General Revenue Fund	\$81,425,136
From Federal Funds	162,322,306
From Nursing Facility Reimbursement Allowance Fund	1,414,043
From Health Initiatives Fund	194,881
From Healthy Families Trust Fund	831,745
From Ambulance Service Reimbursement Allowance Fund	10,141,830E

For the purpose of funding non-emergency medical transportation

From General Revenue Fund	11,396,432
From Federal Funds	17,903,056

For the purpose of funding the federal share of MO HealthNet reimbursable non-emergency medical transportation for public entities

From Federal Funds	6,460,100
Total	\$292,089,529

SECTION 11.475.— There is transferred out of the State Treasury from the General Revenue Fund to the Ambulance Service Reimbursement Allowance Fund

From General Revenue Fund	\$9,069,225E
---------------------------------	--------------

SECTION 11.480.— There is transferred out of the State Treasury from the Ambulance Service Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Ambulance Service Reimbursement Allowance Fund

From Ambulance Service Reimbursement Allowance Fund	\$9,069,225E
-----------------------------------------------------------	--------------

SECTION 11.485.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding the payment to comprehensive prepaid health care plans or for payments to providers of health care services for persons eligible for medical assistance under the MO HealthNet fee-for-service programs or State Medical Program as provided by federal or state law or for payments to programs authorized by the Frail Elderly Demonstration Project Waiver as provided by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (16), RSMo

From General Revenue Fund	\$265,111,748
From Federal Funds	690,505,248
From MO HealthNet Managed Care Organization Reimbursement Allowance Fund	1E
From Health Initiatives Fund	8,055,080
From Federal Reimbursement Allowance Fund	93,533,441
From Healthy Families Trust Fund	4,447,110

From Life Sciences Research Trust Fund	7,272,544
Total	\$1,068,925,172

SECTION 11.490.— There is transferred out of the State Treasury from the General Revenue Fund to the MO HealthNet Managed Care Organization Reimbursement Allowance Fund

From General Revenue Fund	\$1E
---------------------------------	------

SECTION 11.495.— There is transferred out of the State Treasury from the MO HealthNet Managed Care Organization Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the MO HealthNet Managed Care Organization Reimbursement Allowance Fund

From MO HealthNet Managed Care Organization Reimbursement Allowance Fund ..	\$1E
-----------------------------------------------------------------------------	------

SECTION 11.500.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding hospital care under the MO HealthNet fee-for-service and managed care programs, and for a comprehensive chronic care risk management program. The MO HealthNet Division shall track payments to out-of-state hospitals by location

From General Revenue Fund	\$15,249,439
From Federal Funds	482,597,492
From Uncompensated Care Fund	32,483,522
From Federal Reimbursement Allowance Fund	185,298,958
From Health Initiatives Fund	2,797,179
From Third Party Liability Collections Fund	1,062,735
From Healthy Families Trust Fund	2,365,987

For Safety Net Payments

From Healthy Families Trust Fund	30,365,444
----------------------------------------	------------

For Graduate Medical Education

From Healthy Families Trust Fund	10,000,000
----------------------------------------	------------

For the purpose of funding a community-based care coordinating program that includes in-home visits and/or phone contact by a nurse care manager or electronic monitor. The purpose of such program shall be to ensure that patients are discharged from hospitals to an appropriate level of care and services and that targeted MO HealthNet beneficiaries with chronic illnesses and high-risk pregnancies receive care in the most cost-effective setting. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the MO HealthNet Division's Disease Management Program

From Federal Funds	400,000
From Federal Reimbursement Allowance Fund	200,000

For the purpose of funding hospital care under the MO HealthNet fee-for-service and managed care programs, and funding costs incurred by hospitals for the staffing of the emergency department with MO HealthNet enrolled physicians of Level I, II, III Trauma Centers as defined by the Department of Health and Senior Services and Critical Access Hospitals as defined by the Department of Social Services, MO HealthNet

Division, contingent upon adoption of an offsetting increase in the applicable provider tax	
From Federal Funds	30,000,000E
From Federal Reimbursement Allowance Fund	20,000,000E

For the purpose of continuing funding in Southwest Missouri and metropolitan Kansas City Regions of the pager project facilitating medication compliance for the chronically ill MO HealthNet participants identified by the division as having high utilization of acute care because of poor management of their condition. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the MO HealthNet Division's Disease Management Program

From Federal Funds	215,000
From Federal Reimbursement Allowance Fund	215,000
Total	\$813,250,756

SECTION 11.505.— To the Department of Social Services

For the MO HealthNet Division

For payment to Tier 1 Safety Net Hospitals, by maximizing eligible costs for federal Medicaid funds, utilizing current state and local funding sources as match for services that are not currently matched with federal Medicaid payments

From Federal Funds	\$8,000,000E
--------------------	--------------

SECTION 11.510.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding grants to Federally Qualified Health Centers

From General Revenue Fund	\$7,800,000
---------------------------	-------------

SECTION 11.515.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding payments to hospitals under the Federal Reimbursement Allowance Program including state costs to pay for an independent audit of DSH payments as required by CMS and for the expenses of the Poison Control Center in order to provide services to all hospitals within the state

From Federal Reimbursement Allowance Fund	\$878,929,394E
-------------------------------------------	----------------

SECTION 11.520.— To the Department of Social Services

There is hereby transferred out of the State Treasury, chargeable to the Department of Social Services Intergovernmental Transfer Fund to the General Revenue Fund for the purpose of providing the state match for Medicaid payments

From Department of Social Services Intergovernmental Transfer Fund	\$82,200,000E
--------------------------------------------------------------------	---------------

SECTION 11.525.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding payments to the Tier 1 Safety Net Hospitals and other public hospitals using intergovernmental transfers

From Department of Social Services Intergovernmental Transfer Fund	\$70,348,801E
From Federal Funds	129,505,748E
Total	\$199,854,549

SECTION 11.530.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding payments to the Department of Mental Health

From Department of Social Services Intergovernmental Transfer Fund \$65,731,662E

From Federal Funds 112,898,554E

Total \$178,630,216

SECTION 11.535.— To the Department of Social Services

For the MO HealthNet Division

For funding extended women's health services using fee-for-service, prepaid

health plans, or other alternative service delivery and reimbursement

methodology approved by the director of the Department of Social Services

From General Revenue Fund \$892,994

From Federal Funds 9,337,826

From Federal Reimbursement Allowance Fund 167,756

From Pharmacy Reimbursement Allowance Fund 49,034

For the purpose of funding health care services provided to uninsured adults

through local initiatives for the uninsured

From Federal and Other Funds 1E

Total \$10,447,611

SECTION 11.540.— To the Department of Social Services

For the MO HealthNet Division

For funding programs to enhance access to care for uninsured children using

fee-for-services, prepaid health plans, or other alternative service delivery

and reimbursement methodology approved by the director of the

Department of Social Services. Provided that families of children

receiving services under this section shall pay the following premiums

to be eligible to receive such services: zero percent on the amount of a

family's income which is less than 150 percent of the federal poverty

level; four percent on the amount of a family's income which is less

than 185 percent of the federal poverty level but greater than 150

percent of the federal poverty level; eight percent of the amount on a

family's income which is less than 225 percent of the federal poverty

level but greater than 185 percent of the federal poverty level; fourteen

percent on the amount of a family's income which is less than 300

percent of the federal poverty level but greater than 225 percent of

the federal poverty level not to exceed five percent of total income.

Families with an annual income of more than 300 percent of the federal

poverty level are ineligible for this program

From General Revenue Fund \$23,277,111

From MO HealthNet Managed Care Organization Reimbursement

Allowance Fund 1EFrom Federal Funds 116,118,899

From Federal Reimbursement Allowance Fund 7,719,204

From Health Initiatives Fund 5,375,576

From Pharmacy Rebates Fund 225,430

From Pharmacy Reimbursement Allowance Fund 907,611

From Premium Fund 2,592,452

From Life Sciences Research Trust Fund 171,206

Total \$156,387,490

SECTION 11.545.— There is transferred out of the State Treasury from the General Revenue Fund to the Federal Reimbursement Allowance Fund
 From General Revenue Fund \$450,000,000E

SECTION 11.550.— There is transferred out of the State Treasury from the Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Federal Reimbursement Allowance Fund
 From Federal Reimbursement Allowance Fund \$450,000,000E

SECTION 11.555.— There is transferred out of the State Treasury from the General Revenue Fund to the Nursing Facility Federal Reimbursement Allowance Fund
 From General Revenue Fund \$120,000,000E

SECTION 11.560.— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Nursing Facility Federal Reimbursement Allowance Fund
 From Nursing Facility Federal Reimbursement Allowance Fund \$120,000,000E

SECTION 11.565.— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the Nursing Facility Quality of Care Fund
 From Nursing Facility Federal Reimbursement Allowance Fund \$1,500,000

SECTION 11.570.— To the Department of Social Services
 For the MO HealthNet Division
 For the purpose of funding Nursing Facility Federal Reimbursement Allowance payments as provided by law
 From Nursing Facility Federal Reimbursement Allowance Fund \$235,091,756E

SECTION 11.575.— To the Department of Social Services
 For the MO HealthNet Division
 For the purpose of funding MO HealthNet services for the Department of Elementary and Secondary Education under the MO HealthNet fee-for-service and managed care programs
 From General Revenue Fund \$69,954
 From Federal Funds 33,299,954E
 Total \$33,369,908

SECTION 11.580.— To the Department of Social Services
 For the MO HealthNet Division
 For the purpose of funding medical benefits for recipients of the state medical programs, including coverage in managed care programs
 From General Revenue Fund \$31,241,106
 From Pharmacy Reimbursement Allowance Fund 1,460,328
 From Health Initiatives Fund 353,437
 Total \$33,054,871

SECTION 11.585.— To the Department of Social Services
 For the MO HealthNet Division
 For the purpose of supplementing appropriations for any medical service

and expense under the MO HealthNet fee-for-service, managed care, or state medical programs, including related services, provided that the funds appropriated herein shall not be used to implement new programs or services and that such programs and services are in existence as of the effective date of this section

From Federal Funds	\$24,107,486
From Premium Fund	3,837,940
From Third Party Liability Collections Fund	7,571,156
From Uncompensated Care Fund	1
From Federal Reimbursement Allowance Fund	1
From Nursing Facility Federal Reimbursement Allowance Fund	<u>181,500</u>
Total	\$35,698,084

DEPARTMENT OF SOCIAL SERVICES TOTALS

General Revenue Fund	\$1,458,352,466
Federal Funds	4,011,581,216
Other Funds	<u>2,186,658,673</u>
Total	\$7,656,592,355

Approved June 17, 2010

HB 2012 [CCS SCS HCS HB 2012]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CHIEF EXECUTIVE'S OFFICE AND MANSION, LIEUTENANT GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, STATE TREASURER, ATTORNEY GENERAL, MISSOURI PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS RETIREMENT SYSTEMS, JUDICIARY, OFFICE OF STATE PUBLIC DEFENDER, GENERAL ASSEMBLY, MISSOURI COMMISSION ON INTERSTATE COOPERATION, COMMITTEE ON LEGISLATIVE RESEARCH, VARIOUS JOINT COMMITTEES, AND INTERIM COMMITTEES.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Chief Executive's Office and Mansion, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Missouri Prosecuting Attorneys and Circuit Attorneys Retirement Systems, and the Judiciary and the Office of the State Public Defender, and the several divisions and programs thereof, and for the payment of salaries and mileage of members of the State Senate and the House of Representatives and contingent expenses of the General Assembly, including salaries and expenses of elective and appointive officers and necessary capital improvements expenditures; for salaries and expenses of members and employees and other necessary operating expenses of the Missouri Commission on Interstate Cooperation, the Committee on Legislative Research, various joint committees, for the expenses of the interim committees established by the General Assembly, and to transfer money among certain funds, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2010 and ending June 30, 2011 as follows:

SECTION 12.005.— To the Governor

Personal Service and/or Expense and Equipment	\$1,986,741
Personal Service and/or Expense and Equipment for the Mansion	142,628
From General Revenue Fund (Not to exceed 39.00 F.T.E.)	\$2,129,369

SECTION 12.010.— To the Governor

For expenses incident to emergency duties performed by the National Guard
when ordered out by the Governor

From General Revenue Fund	\$1E
---------------------------	------

SECTION 12.015.— To the Governor

For conducting special audits

From General Revenue Fund	\$30,000
---------------------------	----------

SECTION 12.020.— To the Governmental Emergency Fund Committee

For allocation by the committee to state agencies that qualify for emergency
or supplemental funds under the provisions of Section 33.720, RSMo

From General Revenue Fund	\$1E
---------------------------	------

SECTION 12.025.— To the Lieutenant Governor

Personal Service and/or Expense and Equipment	
From General Revenue Fund (Not to exceed 8.50 F.T.E.)	\$415,787

SECTION 12.035.— To the Secretary of State

Personal Service and/or Expense and Equipment	
From General Revenue Fund	\$9,283,912
From Federal and Other Funds	856,639
From Secretary of State's Technology Trust Fund Account	4,907,189
From Local Records Preservation Fund	1,562,485
From Secretary of State — Wolfner State Library Fund	14,501
From Investor Education and Protection Fund	1,195,894
From Election Administration Improvements Fund	261,191
From National Endowment for the Humanities Save America's Treasures Grant	241,949
Total (Not to exceed 280.30 F.T.E.)	\$18,323,760

SECTION 12.040.— To the Secretary of State

For the purpose of receiving and expending grants, donations, contracts,
and payments from private, federal, or other governmental
agencies provided that the General Assembly shall be notified of
the source of any new funds and the purpose for which they will be

expended, in writing, prior to the expenditure of said funds

From Federal and Other Funds	\$200,000E
------------------------------	------------

SECTION 12.045.— To the Secretary of State
 For refunds of securities, corporations, uniform commercial code, and
 miscellaneous collections of the Secretary of State's Office
 From General Revenue Fund \$50,000E

SECTION 12.050.— To the Secretary of State
 For reimbursement to victims of securities fraud and other violations
 pursuant to Section 409.407, RSMo
 From Investors Restitution Fund \$55,000E

SECTION 12.055.— To the Secretary of State
 For expenses of initiative referendum and constitutional amendments
 From General Revenue Fund \$1,300,000E

SECTION 12.060.— To the Secretary of State
 For election costs associated with absentee ballots
 From General Revenue Fund \$80,000E

SECTION 12.065.— To the Secretary of State
 For costs associated with providing provisional ballots and voter
 registration applications
 From General Revenue Fund \$21,395

SECTION 12.070.— To the Secretary of State
 For election reform grants, transactions costs, election administration
 improvements within Missouri, and support of Help America Vote
 Act activities
 From Federal and Other Funds \$12,209,152E

SECTION 12.075.— There is transferred out of the State Treasury,
 chargeable to the General Revenue Fund such amounts as may
 become necessary, to the State Elections Subsidy Fund
 From General Revenue Fund \$4,284,000E

SECTION 12.080.— To the Secretary of State
 For the state's share of special election costs as required by Chapter 115, RSMo
 From State Elections Subsidy Fund \$400,000E

SECTION 12.085.— There is transferred out of the State Treasury, chargeable
 to the State Elections Subsidy Fund, to the Election Administration
 Improvements Fund
 From State Elections Subsidy Fund \$3,784,000E

SECTION 12.090.— To the Secretary of State
 For historical repository grants
 From Federal Funds \$15,000E

SECTION 12.095.— To the Secretary of State
 For local records preservation grants
 From Local Records Preservation Fund \$400,000E

SECTION 12.100.— To the Secretary of State

For preserving legal, historical, and genealogical materials and making them
available to the public

From State Document Preservation Fund \$189,260E

For costs related to establishing and operating a St. Louis Record Center

From Missouri State Archives - St. Louis Trust Fund 1E

Total \$189,261

SECTION 12.105.— To the Secretary of State

For aid to public libraries

From General Revenue Fund \$3,604,001

SECTION 12.110.— To the Secretary of State

For the Remote Electronic Access for Libraries (REAL) Program

From General Revenue Fund \$3,109,250

SECTION 12.115.— To the Secretary of State

For the Literacy Investment for Tomorrow (LIFT) Program

From General Revenue Fund \$69,450

SECTION 12.120.— To the Secretary of State

For all allotments, grants, and contributions from the federal government
or from any sources that may be deposited in the State Treasury for
the use of the Missouri State Library

From Federal Funds \$2,750,000E

SECTION 12.125.— To the Secretary of State

For library networking grants and other grants and donations

From Library Networking Fund \$950,000E

SECTION 12.145.— To the State Auditor

Personal Service and/or Expense and Equipment

From General Revenue Fund \$6,518,762

From Federal Funds 879,116

From Conservation Commission Fund 45,651

From Parks Sales Tax Fund 21,496

From Soil and Water Sales Tax Fund 20,728

From Petition Audit Revolving Trust Fund 844,350

Total (Not to exceed 168.77 F.T.E.) \$8,330,103

SECTION 12.150.— To the State Treasurer

Personal Service and/or Expense and Equipment

From State Treasurer's General Operations Fund \$1,847,089

From Central Check Mailing Service Revolving Fund 247,978E

For Unclaimed Property Division administrative costs including personal
service, expense and equipment for auctions, advertising, and promotions

From Abandoned Fund Account 841,001E

For preparation and dissemination of information or publications, or for
refunding overpayments

From Treasurer's Information Fund	8,000
Total (Not to exceed 49.40 F.T.E.)	<u>\$2,944,068</u>

SECTION 12.155.— To the State Treasurer

For issuing duplicate checks or drafts and outlawed checks as provided by law

From General Revenue Fund	\$1,000,000E
---------------------------------	--------------

SECTION 12.160.— To the State Treasurer

For payment of claims for abandoned property transferred by holders to the state

From Abandoned Fund Account	\$22,500,000E
-----------------------------------	---------------

SECTION 12.165.— To the State TreasurerFor transfer of such sums as may be necessary to make payment of claims
from the Abandoned Fund Account pursuant to Chapter 447, RSMo

From General Revenue Fund	\$1E
---------------------------------	------

SECTION 12.170.— To the State TreasurerThere is transferred out of the State Treasury, chargeable to the Abandoned
Fund Account, to the General Revenue Fund

From Abandoned Fund Account	\$30,000,000E
-----------------------------------	---------------

SECTION 12.175.— To the State Treasurer

For refunds of excess interest from the Linked Deposit Program

From General Revenue Fund	\$100E
---------------------------------	--------

SECTION 12.180.— To the State TreasurerThere is transferred out of the State Treasury, chargeable to the Debt Offset
Escrow Fund, to the General Revenue Fund

From Debt Offset Escrow Fund	\$100,000E
------------------------------------	------------

SECTION 12.185.— To the State TreasurerThere is transferred out of the State Treasury, chargeable to various funds,
to the General Revenue Fund

From Various Funds	\$1E
--------------------------	------

SECTION 12.190.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the

Abandoned Fund Account, to the State Public School Fund

From Abandoned Fund Account	\$1,500,000E
-----------------------------------	--------------

SECTION 12.195.— To the Attorney General

Personal Service and/or Expense and Equipment

From General Revenue Fund	\$13,090,902
From Federal Funds	2,221,077
From Gaming Commission Fund	140,029
From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount .	41,327
From Solid Waste Management Fund	41,827
From Petroleum Storage Tank Insurance Fund	25,108
From Motor Vehicle Commission Fund	49,467
From Health Spa Regulatory Fund	5,000
From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount . . .	41,302

From Attorney General's Court Costs Fund	187,000
From Soil and Water Sales Tax Fund	14,464
From Merchandising Practices Revolving Fund	2,566,162
From Workers' Compensation Fund	468,101
From Workers' Compensation - Second Injury Fund	3,019,071
From Lottery Enterprise Fund	55,256
From Attorney General's Anti-Trust Fund	624,232
From Hazardous Waste Fund	298,481
From Safe Drinking Water Fund	14,489
From Inmate Incarceration Reimbursement Act Revolving Fund	137,584
From Mined Land Reclamation Fund	<u>14,459</u>
Total (Not to exceed 408.05 F.T.E.)	\$23,055,338

SECTION 12.200.— To the Attorney General

For law enforcement, domestic violence, and victims' services

Expense and Equipment

From Federal Funds	\$100,000
--------------------------	-----------

SECTION 12.205.— To the Attorney General

For a Medicaid fraud unit

Personal Service and/or Expense and Equipment

From General Revenue Fund	\$561,050
From Federal Funds	<u>1,683,148</u>
Total (Not to exceed 28.00 F.T.E.)	\$2,244,198

SECTION 12.210.— To the Attorney General

For the Missouri Office of Prosecution Services

Personal Service and/or Expense and Equipment

From General Revenue Fund	\$107,900
From Federal Funds	1,067,326
From Missouri Office of Prosecution Services Fund	2,023,970
From Missouri Office of Prosecution Services Revolving Fund	<u>150,000E</u>
Total (Not to exceed 10.00 F.T.E.)	\$3,349,196

SECTION 12.215.— To the Attorney General

For the Missouri Office of Prosecution Services

There is transferred out of the State Treasury, chargeable to the Attorney

General Federal Fund, to the Missouri Office of Prosecution Services
Fund

From Federal Funds	\$100,000
--------------------------	-----------

SECTION 12.220.— To the Attorney General

For the fulfillment or failure of conditions, or other such developments,

necessary to determine the appropriate disposition of such funds, to
those individuals, entities, or accounts within the State Treasury, certified
by the Attorney General as being entitled to receive them

Expense and Equipment

From Attorney General Trust Fund	\$1E
----------------------------------------	------

SECTION 12.225.— To the Attorney General

There is transferred out of the State Treasury, chargeable to the General

Revenue Fund, to the Attorney General's Court Costs Fund

From General Revenue Fund \$165,600

SECTION 12.230.— To the Attorney General

There is transferred out of the State Treasury, chargeable to the General
Revenue Fund, to the Attorney General's Anti-Trust Fund

From General Revenue Fund \$69,000

SECTION 12.300.— To the Supreme Court

For the purpose of funding Judicial Proceedings and Review

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
sections and not more than twenty-five percent (25%) flexibility
is allowed between personal service and expense and equipment

From General Revenue Fund \$4,683,069

Personal Service

From Federal Funds 485,026

Expense and Equipment

From Supreme Court Publications Revolving Fund 150,000

For the purpose of funding basic legal services

Personal Service 51,968

Expense and Equipment 10,266

Program Specific Distribution 3,200,000E

From Basic Civic Legal Services Fund 3,262,234

Total (Not to exceed 83.00 F.T.E.) \$8,580,329

SECTION 12.305.— To the Supreme Court

For the purpose of funding the State Courts Administrator

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
sections and not more than twenty-five percent (25%) flexibility
is allowed between personal service and expense and equipment

From General Revenue Fund \$4,064,358

For the purpose of implementing and supporting an integrated case
management system

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
sections and not more than twenty-five percent (25%) flexibility
is allowed between personal service and expense and equipment

From General Revenue Fund 7,058,578

Expense and Equipment

From State Court Administration Revolving Fund 30,000

Expense and Equipment

From Crime Victims' Compensation Fund 887,200

Total (Not to exceed 136.00 F.T.E.) \$12,040,136

SECTION 12.310.— To the Supreme Court

For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Supreme Court and other state courts

Personal Service	\$2,217,578
Expense and Equipment	<u>5,609,649E</u>
From Federal Funds	7,827,227

Personal Service	30,942
Expense and Equipment	<u>300</u>
From Basic Civil Legal Services Fund	<u>31,242</u>
Total (Not to exceed 45.25 F.T.E.)	\$7,858,469

SECTION 12.315.— To the Supreme Court

For the purpose of developing and implementing a program of statewide court automation

Personal Service	\$1,561,021
Expense and Equipment	<u>2,885,181E</u>
From the Statewide Court Automation Fund (Not to exceed 34.00 F.T.E.)	\$4,446,202

SECTION 12.320.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Judiciary Education and Training Fund, provided that not more than twenty-five percent (25%) flexibility is allowed between sections

From General Revenue Fund	\$1,395,363
---------------------------------	-------------

SECTION 12.325.— To the Supreme Court

For the purpose of funding judicial education and training

Expense and Equipment	
From Federal Funds	\$225,000

Personal Service	618,477
Expense and Equipment	<u>1,033,445</u>
From Judiciary Education and Training Fund	<u>1,651,922</u>
Total (Not to exceed 13.00 F.T.E.)	\$1,876,922

SECTION 12.330.— To the Supreme Court

For the purpose of funding the Court of Appeals-Western District

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between sections and not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund (Not to exceed 53.50 F.T.E.)	\$3,741,618

SECTION 12.335.— To the Supreme Court

For the purpose of funding the Court of Appeals-Eastern District

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between sections and not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund (Not to exceed 73.75 F.T.E.)	\$4,818,437

SECTION 12.340.— To the Supreme Court

For the purpose of funding the Court of Appeals-Southern District

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
sections and not more than twenty-five percent (25%) flexibility
is allowed between personal service and expense and equipment

From General Revenue Fund (Not to exceed 31.60 F.T.E.) \$2,314,295

SECTION 12.345.— To the Supreme Court

For the purpose of funding the Circuit Courts

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
sections and not more than twenty-five percent (25%) flexibility
is allowed between personal service and expense and equipment

From General Revenue Fund \$125,006,658

Personal Service 1,541,273

Expense and Equipment 329,661

From Federal Funds 1,870,934

Personal Service 252,524

Expense and Equipment 128,039

From Third Party Liability Collections Fund 380,563

Expense and Equipment

From State Court Administration Revolving Fund 200,000

Program Distribution

For Entitlement Programs

From General Revenue Fund 2,079,000

Total (Not to exceed 2,928.20 F.T.E.) \$129,537,155

SECTION 12.350.— To the Supreme Court

For the purpose of making payments due from litigants in court proceedings
under set-off against debts authority as provided in Section 488.020(3),
RSMo

From Circuit Courts Escrow Fund \$505,500E

For the payment to counties for salaries of juvenile court personnel as

provided by Sections 211.393 and 211.394, RSMo, provided that not
more than twenty-five percent (25%) flexibility is allowed between sections

From General Revenue Fund 7,579,900

For the purpose of funding the court-appointed special advocacy program

statewide office, provided that not more than twenty-five percent (25%)
flexibility is allowed between sections

From General Revenue Fund 300,000

For the purpose of funding court-appointed special advocacy programs as
provided in Section 476.777, RSMo

From Missouri CASA Fund 100,000E

For the purpose of funding Criminal Non-Support Court development
 From Criminal Nonsupport Court Resources Fund 1E

For the purpose of funding costs associated with creating the handbook and
 other programs as provided in Section 452.554, RSMo
 From the Domestic Relations Resolution Fund 300,000E
 Total \$8,785,401

SECTION 12.355.— There is transferred out of the State Treasury, chargeable
 to the General Revenue Fund, to the Drug Court Resources Fund,
 provided that not more than twenty-five percent (25%) flexibility is
 allowed between sections
 From General Revenue Fund \$5,725,500

SECTION 12.360.— To the Supreme Court
 For the purpose of funding drug courts
 Personal Service \$193,656
 Expense and Equipment 5,723,698E
 From the Drug Court Resources Fund (Not to exceed 4.00 F.T.E.) \$5,917,354

SECTION 12.365.— To the Commission on Retirement, Removal, and
 Discipline of Judges
 For the purpose of funding the expenses of the Commission
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment and between sections
 From General Revenue Fund (Not to exceed 2.75 F.T.E.) \$220,644

SECTION 12.370.— To the Supreme Court
 For the purpose of funding the expenses of the members of the Appellate
 Judicial Commission and the several circuit judicial commissions in
 circuits having the non-partisan court plan, and for services rendered
 by clerks of the Supreme Court, courts of appeals, and clerks in
 circuits having the non-partisan court plan for giving notice of and
 conducting elections as ordered by the Supreme Court, provided that
 not more than twenty-five percent (25%) flexibility is allowed between
 sections
 From General Revenue Fund \$7,741

SECTION 12.375.— To the Supreme Court
 For the purpose of funding the Missouri Sentencing and Advisory Commission
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment and between sections
 From General Revenue Fund (Not to exceed 1.00 F.T.E.) \$78,983

SECTION 12.400.— To the Office of the State Public Defender
 For the purpose of funding the State Public Defender System
 Personal Service and/or Expense and Equipment \$32,149,041
 For payment of expenses as provided by Chapter 600, RSMo, associated with
 the defense of violent crimes and/or the contracting of criminal representation
 with entities outside of the Missouri Public Defender System 2,558,059

From General Revenue Fund 34,707,100

For expenses authorized by the Public Defender Commission as provided
by Section 600.090, RSMo

Personal Service 129,507
Expense and Equipment 2,850,756

From Legal Defense and Defender Fund 2,980,263

For refunds set-off against debts as required by Section 143.786, RSMo

From Debt Offset Escrow Fund 350,000E

For all grants and contributions of funds from the federal government or from
any other source which may be deposited in the State Treasury for the
use of the Office of the State Public Defender

From Federal Funds 125,000

Total (Not to exceed 572.13 F.T.E.) \$38,162,363

SECTION 12.500.— To the Senate

Salaries of Members \$1,226,610
Mileage of Members 87,406
Members' Per Diem 226,100
Senate Contingent Expenses 8,933,783

Joint Contingent Expenses 125,000

From General Revenue Fund 10,598,899

Senate Contingent Expenses

From Senate Revolving Fund 40,000

Total (Not to exceed 214.00 F.T.E.) \$10,638,899

SECTION 12.505.— To the House of Representatives

Salaries of Members \$5,861,145
Mileage of Members 440,491
Members' Per Diem 1,290,960
Representatives' Expense Vouchers 1,369,200
House Contingent Expenses 10,977,028

From General Revenue Fund 19,938,824

House Contingent Expenses

From House of Representatives Revolving Fund 45,000E

Total (Not to exceed 421.84 F.T.E.) \$19,983,824

SECTION 12.510.— To the Committee on Legislative Research

For payment of expenses of members, salaries and expenses of employees,
and other necessary operating expenses, provided that not more than
twenty-five percent (25%) flexibility is allowed between personal service
and expense and equipment

For the Legislative Research Administration \$1,054,354

For the Oversight Division 685,522

From General Revenue Fund (Not to exceed 37.03 F.T.E.) \$1,739,876

SECTION 12.515.— To the Committee on Legislative Research
For paper, printing, binding, editing, proofreading, and other necessary
expenses of publishing the Supplement to the Revised Statutes of
the State of Missouri

From General Revenue Fund	\$361,436
From Statutory Revision Fund	<u>207,255E</u>
Total (Not to exceed 6.30 F.T.E.)	\$568,691

SECTION 12.520.— To the Interim Committees of the General Assembly

For the Joint Committee on Corrections	\$11,400
For the Joint Committee on Administrative Rules	122,528
For the Joint Committee on Public Employee Retirement	160,810
For the Joint Committee on Capital Improvements and Leases Oversight	122,835
For the Joint Committee on Transportation Oversight	4,750
For the Joint Committee on Tax Policy	74,143
For the Joint Committee on Education	<u>77,710</u>
From General Revenue Fund (Not to exceed 9.00 F.T.E.)	\$574,176

ELECTED OFFICIALS TOTALS

General Revenue Fund	\$45,840,381
Federal Funds	22,484,598
Other Funds	<u>43,993,721</u>
Total	\$112,318,700

JUDICIARY TOTALS

General Revenue Fund	\$169,074,144
Federal Funds	10,408,187
Other Funds	<u>10,292,942</u>
Total	\$189,775,273

PUBLIC DEFENDER COMMISSION TOTALS

General Revenue Fund	\$34,707,100
Federal Funds	125,000
Other Funds	<u>2,980,263</u>
Total	\$37,812,363

GENERAL ASSEMBLY TOTALS

General Revenue Fund	\$33,213,211
Other Funds	<u>292,255</u>
Total	\$33,505,466

Approved June 17, 2010

HB 2013 [CCS SCS HCS HB 2013]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: LEASES AND CAPITAL IMPROVEMENTS.

AN ACT to appropriate money for real property leases, related services, utilities, systems furniture, structural modifications, and related expenses for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to appropriate money for capital improvements and the other expenses of the Office of Administration and the divisions and programs thereof, and to transfer money among certain funds for the period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2010 and ending June 30, 2011 as follows:

SECTION 13.005.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the costs associated with leased space provided that not more than twenty-five percent (25%) flexibility is allowed between Sections 13.005, 13.010, and 13.015

Expense and Equipment

From General Revenue Fund	\$25,318,659
From Federal and Other Funds	<u>17,749,349</u>
Total	\$43,068,008

SECTION 13.010.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the costs associated with state-owned space provided that not more than twenty-five percent (25%) flexibility is allowed between Sections 13.005, 13.010, and 13.015

Expense and Equipment

From General Revenue Fund	\$15,330,072
From Federal and Other Funds	<u>11,258,492</u>
Total	\$26,588,564

SECTION 13.015.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the costs associated with institutional space provided that not more than twenty-five percent (25%) flexibility is allowed between Sections 13.005, 13.010, and 13.015

Expense and Equipment

From General Revenue Fund	\$70,387,255
From Federal and Other Funds	<u>4,702,691</u>
Total	\$75,089,946

SECTION 13.020.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the collection and payment of costs associated with state-owned, institutional, and leased space occupied by non-state agencies

Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund	\$1,124,519E
-----------------------------------------------------------------------------	--------------

SECTION 13.025.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For the Department of Public Safety
 For the Adjutant General
 For the costs associated with institutional and leased space

Expense and Equipment	
From General Revenue Fund	\$1,231,518
From Federal Funds	4,972,760E
From Other Funds	<u>446,828</u>
Total	\$6,651,106

LEASING TOTALS

General Revenue Fund	\$112,267,504
Federal Funds	23,195,547
Other Funds	<u>12,931,904</u>
Total	\$148,394,955

Approved June 17, 2010

HB 2014 [SCS HCS HB 2014]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: SUPPLEMENTAL PURPOSES.

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for the purchase of equipment, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2010.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2010, as follows:

SECTION 14.005.— To the Department of Elementary and Secondary Education

For distributions to the free public schools under the School Foundation

Program as provided in Chapter 163, RSMo, as follows: At least \$23,000,010 for the foundation formula provided that, notwithstanding the provisions of Section 163.031, RSMo, to the contrary, the Department of Elementary and Secondary Education shall modify the foundation formula phase-in percentages pursuant to Section 163.031.4(4) to accommodate the total amount of available appropriations in fiscal year 2010; and no more than \$3,901,597 for Early Childhood Special Education

From State School Moneys Fund	\$23,000,010
From Federal Budget Stabilization Fund	<u>3,901,597</u>
Total	\$26,901,607

SECTION 14.015.— To the Department of Elementary and Secondary Education
For the Disability Determination Program
From Federal Funds \$1,500,000

SECTION 14.020.— To the Department of Elementary and Secondary Education
For the School Age Child Care Program
From Federal Funds \$7,200,000

SECTION 14.025.— To the Department of Elementary and Secondary Education
For special education excess costs
From Federal Budget Stabilization Fund \$588,625

SECTION 14.030.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
General Revenue Fund, to the State School Moneys Fund
From General Revenue Fund \$86,168,682E

SECTION 14.035.— To the Department of Revenue
For the increased costs of license plate manufacture
From Federal Budget Stabilization Fund \$90,000

SECTION 14.040.— Funds are to be transferred out of the State Treasury,
chargeable to the General Revenue Fund, to the State Highways and
Transportation Department Fund, for reimbursement of collection
expenditures in excess of the three percent (3%) limit established by
Article IV, Sections 29, 30(a), 30(b), and 30(c)
From Federal Budget Stabilization Fund \$2,884,158

SECTION 14.045.— To the Department of Revenue
For the Division of Legal Services
For the purpose of defending driver license appeals
Personal Service
From Federal Funds \$53,030E

SECTION 14.050.— To the Department of Revenue
For the payment of intercepted interstate debt
From Debt Offset Escrow Fund \$457,059E

SECTION 14.055.— To the Office of Administration
For payment of attorney fees
From Federal Budget Stabilization Fund \$25,000

SECTION 14.060.— To the Department of Insurance, Financial Institutions
and Professional Registration
For the State Board of Nursing
For payment of attorney fees
From Board of Nursing Fund \$5,000

SECTION 14.065.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For the Line of Duty Compensation Program
From Line of Duty Compensation Fund \$1E

SECTION 14.070.— Funds are to be transferred out of the State Treasury,
chargeable to the Federal Budget Stabilization Fund, to the Line of
Duty Compensation Fund
From Federal Budget Stabilization Fund \$1E

SECTION 14.075.— To the Department of Public Safety
For the State Highway Patrol
For Crime Labs
From Federal Budget Stabilization Fund \$1,099,947

SECTION 14.080.— To the Department of Public Safety
For the State Highway Patrol and other state agencies
For a statewide interoperable communication system
From State Highways and Transportation Department Fund \$4,207,940

SECTION 14.085.— To the Department of Corrections
For the Office of the Director
For the purpose of allocating offender bed space as to maximize safety
and security within the institutions
From Federal Budget Stabilization Fund \$280,641

SECTION 14.090.— To the Department of Mental Health
For the Office of the Director
For the purpose of paying overtime to state employees and/or paying otherwise
authorized personal service expenditures in lieu of such overtime
payments. Non-exempt state employees identified by Section 105.935,
RSMo, will be paid first with any remaining funds being used to pay
overtime to any other state employees
From Federal Budget Stabilization Fund \$2,266,503
From Federal Funds 996,701
Total \$3,263,204

SECTION 14.095.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding youth community programs
From Federal Budget Stabilization Fund \$45,990

SECTION 14.100.— To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding community programs
From Home and Community-Based Developmental Disabilities Waiver
Reimbursement Allowance Fund \$1,525,484E

SECTION 14.110.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding respite care, homemaker chore, personal care,
advanced personal care, adult day care, AIDS, children's waiver services,
home-delivered meals, and other related services under the MO HealthNet
fee-for-service and managed care programs. Provided that individuals
eligible for or receiving nursing home care must be given the opportunity
to have those MO HealthNet dollars follow them to the community to the
extent necessary to meet their unmet needs as determined by 19 CSR 30

81.030 and further be allowed to choose the personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed MO HealthNet State Plan. And further provided that individuals eligible for the MO HealthNet Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet needs as determined by 19 CSR 30 81.030; and also be allowed to have their MO HealthNet funds follow them to the extent necessary to meet their unmet needs whichever option they choose.

This language does not create any entitlements not established by statute

From Federal Budget Stabilization Fund	\$19,891,879
From Federal Funds	35,641,007E
From In-Home Services Gross Receipts Tax Fund	1E
Total	\$55,532,887

SECTION 14.115.— There is transferred out of the State Treasury from the General Revenue Fund to the In-Home Services Gross Receipts Tax Fund

From General Revenue Fund	\$1E
---------------------------------	------

SECTION 14.120.— There is transferred out of the State Treasury from the In-Home Services Gross Receipts Tax Fund to the General Revenue Fund as a result of recovering the In-Home Services Gross Receipts Tax

From In-Home Services Gross Receipts Tax Fund	\$1E
-----------------------------------------------------	------

SECTION 14.130.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of supplementing appropriations for any medical service under the MO HealthNet fee-for-service, managed care, or state medical programs, including related services and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program, provided that funds appropriated herein shall not be used to implement new programs and that such programs and services are in existence as of the effective date of this section

From Federal Budget Stabilization Fund	\$77,490,492
From Federal Funds	107,782,467
From Life Sciences Research Trust Fund	9,000,000
From Uncompensated Care Fund	700,000
From Pharmacy Rebates Fund	5,700,000
Total	\$200,672,959

Bill Totals

General Revenue Fund	\$86,168,682
Federal Budget Stabilization Fund	108,564,833
Federal Funds	153,173,205
Other Funds	44,138,435
Total	\$392,045,155

Approved April 13, 2010

HB 2016 [SCS HCS HB 2016]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CAPITAL IMPROVEMENTS.

AN ACT to appropriate money for purposes for the several departments and offices of state government; for the purchase of equipment; for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements; and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the fiscal period beginning July 1, 2010 and ending June 30, 2011.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, chargeable to the fund and for the agency and purpose designated, for the period beginning July 1, 2010 and ending June 30, 2011 the unexpended balances available as of June 30, 2010 but not to exceed the amounts stated herein, as follows:

SECTION 16.005. — To the Department of Elementary and Secondary Education
For Equipment Grants within the National School Lunch Program

Representing expenditures originally authorized under the provisions
of House Bill Section 21.005, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$284,517

SECTION 16.010. — To the Department of Elementary and Secondary Education
For Institute for Educational Sciences grants

Representing expenditures originally authorized under the provisions
of House Bill Section 21.015, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$9,000,000

SECTION 16.015. — To the Department of Elementary and Secondary Education
For Enhancing Education through Technology projects

Representing expenditures originally authorized under the provisions
of House Bill Section 21.025, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$7,081,231

SECTION 16.020. — To the Department of Elementary and Secondary Education

For the Title I Education for Disadvantaged \$125,025,863

For the Title I School Improvement 53,352,438

Representing expenditures originally authorized under the provisions
of House Bill Section 21.030, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$178,378,301

SECTION 16.025.— To the Department of Elementary and Secondary Education
For grants to program innovative educational strategies for Homeless
Children (McKinney-Vento)

Representing expenditures originally authorized under the provisions
of House Bill Section 21.035, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$1,117,536

SECTION 16.030.— To the Department of Elementary and Secondary Education
For Vocational Rehabilitation programs

Representing expenditures originally authorized under the provisions
of House Bill Section 21.040, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$5,351,139

SECTION 16.035.— To the Department of Elementary and Secondary Education
For Independent Living Centers

Representing expenditures originally authorized under the provisions
of House Bill Section 21.045, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$287,124

SECTION 16.040.— To the Department of Elementary and Secondary Education
For Special Education programs

Representing expenditures originally authorized under the provisions
of House Bill Section 21.050, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$202,860,388

SECTION 16.045.— To the Department of Elementary and Secondary Education
For the First Steps Program

Representing expenditures originally authorized under the provisions
of House Bill Section 21.055, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$8,286,256

SECTION 16.050.— To the Department of Higher Education, Linn State
Technical College, the University of Central Missouri, Southeast
Missouri State University, Missouri State University, Lincoln
University, Truman State University, Northwest Missouri State
University, Missouri Southern State University, Missouri Western
State University, Harris-Stowe State University, and the University
of Missouri

For the purpose of receiving and expending grants from the American
Recovery and Reinvestment Act for those provided by the:

Institute for Educational Sciences for the development and
expansion of student data systems \$15,000,000

U.S. Department of Labor for health care workforce development 10,000,000

National Science Foundation, the Department of Energy, the
Department of Education, and the Department of Commerce for

the establishment and operation of centers of excellence in
renewable/sustainable energy education, homeland security and
campus safety 59,000,000
Representing expenditures originally authorized under the provisions
of House Bill Section 21.060, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$84,000,000

SECTION 16.055.— To the Department of Transportation
For Construction and Maintenance Programs

Funds are to be transferred out of the State Treasury, chargeable
to the Federal Stimulus Fund, to the State Road Fund, for
reimbursement of expenditures for highway and bridge
infrastructure investment projects
Representing expenditures originally authorized under the provisions
of House Bill Section 21.065, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$529,181,521E

SECTION 16.065.— To the Department of Transportation
For the Transit Program

Funds are to be transferred out of the State Treasury, chargeable
to the Federal Stimulus Fund, to the Multimodal Federal Fund,
for expenditures for public transportation or intercity bus
service
Representing expenditures originally authorized under the provisions
of House Bill Section 21.075, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$8,064,454E

SECTION 16.070.— To the Department of Transportation

Funds are to be transferred out of the State Treasury, chargeable
to the Federal Stimulus Fund, to the Multimodal Federal Fund
and/or the State Road Fund, for reimbursement of expenditures
for surface transportation infrastructure, including highway,
bridge, port, transit, and rail projects
Representing expenditures originally authorized under the provisions
of House Bill Section 21.077, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$5,000,000E

SECTION 16.075.— To the Department of Transportation
For the Rail Program

Funds are to be transferred out of the State Treasury, chargeable to
the Federal Stimulus Fund, to the Multimodal Federal Fund, including
a feasibility study for corridor expansion in Missouri to the extent
the state receives a federal grant for such purposes
Representing expenditures originally authorized under the provisions
of House Bill Section 21.080, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$25,000,000E

SECTION 16.080.— To the Department of Transportation

For the Aviation Program

Funds are to be transferred out of the State Treasury, chargeable
to the Federal Stimulus Fund, to the Multimodal Federal Fund,
for expenditures for airport improvement projects

Representing expenditures originally authorized under the provisions
of House Bill Section 21.085, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund \$6,000,000E

SECTION 16.090.— To the Office of Administration

For administrative, contracting and data software and systems costs

to ensure the state meets federal reporting and purchasing
requirements

Representing expenditures originally authorized under the provisions
of House Bill Section 21.095, an Act of the 95th General Assembly,
First Regular Session

From Federal Budget Stabilization Fund \$319,890

SECTION 16.095.— To the Office of Administration

For transferring funds for COBRA stimulus credits to the Missouri

Consolidated Health Care Plan Benefit Fund \$960,000

For transferring funds for COBRA stimulus credits to the State Road Fund 120,000

For transferring funds for COBRA stimulus credits to the Conservation

Commission Fund 120,000

Representing expenditures originally authorized under the provisions
of House Bill Section 21.100, an Act of the 95th General Assembly,
First Regular Session

From the OASDHI Contributions Fund \$1,200,000

SECTION 16.100.— To the Office of AdministrationFor payment of COBRA stimulus credits to the Missouri Consolidated
Health Care Plan

Representing expenditures originally authorized under the provisions
of House Bill Section 21.105, an Act of the 95th General Assembly,
First Regular Session

From Missouri Consolidated Health Care Plan Benefit Fund \$479,953

For payment of COBRA stimulus credits to Missouri Department of
Transportation/Missouri State Highway Patrol Medical and Life
Insurance Plan

Representing expenditures originally authorized under the provisions
of House Bill Section 21.105, an Act of the 95th General Assembly,
First Regular Session

From State Road Fund 70,909

For payment of COBRA stimulus credits to Conservation Employees' Benefit
Plan Trust Fund

Representing expenditures originally authorized under the provisions
of House Bill Section 21.105, an Act of the 95th General Assembly,
First Regular Session

From Conservation Commission Fund	118,558
Total	\$669,420

SECTION 16.105.— To the Office of Administration

For information technology services related to unemployment compensation
administration
Representing expenditures originally authorized under the provisions
of House Bill Section 21.110, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund	\$32,333E
--------------------------------------	-----------

SECTION 16.110.— To the Office of Administration

For broadband technology opportunities
Representing expenditures originally authorized under the provisions
of House Bill Section 21.115, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund	\$35,000,000E
--------------------------------------	---------------

From Federal Budget Stabilization Fund	5,700,000
Total	\$40,700,000

SECTION 16.115.— To the Office of Administration

For planning and implementation of electronic healthcare information technology
Representing expenditures originally authorized under the provisions
of House Bill Section 21.125, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund	\$15,120,000
From Federal Budget Stabilization Fund	1,680,000
Total	\$16,800,000

SECTION 16.120.— To the Department of Agriculture

For the purpose of receiving and expending grants from the American
Recovery and Reinvestment Act for grants related to food, fuel, and
fiber production, processing and marketing
Representing expenditures originally authorized under the provisions
of House Bill Section 21.160, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund	\$10,000,000
--------------------------------------	--------------

SECTION 16.125.— To the Department of Agriculture

For aquaculture producer assistance
Representing expenditures originally authorized under the provisions
of House Bill Section 21.165, an Act of the 95th General Assembly,
First Regular Session

From Federal Stimulus Fund	\$440,058E
--------------------------------------	------------

SECTION 16.130.— To the Department of Natural Resources

For the purpose of receiving and expending grants from the American
Recovery and Reinvestment Act for grants provided for environmental
quality, state parks, energy or efficiency activities
Representing expenditures originally authorized under the provisions
of House Bill Section 21.170, an Act of the 95th General Assembly,

First Regular Session
From Federal Stimulus Fund \$10,000,000

SECTION 16.135.— To the Department of Natural Resources
For the promotion of energy, renewable energy, and energy efficiency,
including administrative costs
Representing expenditures originally authorized under the provisions
of House Bill Section 21.175, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$214,703,631E

SECTION 16.140.— To the Department of Natural Resources
For grants, contracts or loans pursuant to Sections 644.026 through 644.124,
RSMo, including but not limited to infrastructure to create immediate
economic benefit through the creation of construction jobs, long-term
economic benefits as on-going jobs are created to operate these facilities
and administrative costs
Representing expenditures originally authorized under the provisions
of House Bill Section 21.180, an Act of the 95th General Assembly,
First Regular Session
From Water and Wastewater Loan Fund \$107,602,477E

For grants, contracts or loans for drinking water systems pursuant to
Sections 644.026 through 644.124, RSMo, including but not
limited to infrastructure to create immediate economic benefit
through the creation of construction jobs, long-term economic
benefits as on-going jobs are created to operate these facilities
and administrative costs
Representing expenditures originally authorized under the provisions
of House Bill Section 21.180, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund 2,152,964
From Water and Wastewater Loan Fund 32,925,136E
Total \$142,680,577

SECTION 16.145.— To the Department of Natural Resources
For grants and contracts to study or reduce water pollution, improve ground
water and/or surface water quality
Representing expenditures originally authorized under the provisions
of House Bill Section 21.185, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$1,207,131E

SECTION 16.150.— To the Department of Natural Resources
For grants and contracts for air pollution control activities, including
administrative costs
Representing expenditures originally authorized under the provisions
of House Bill Section 21.190, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$12,536,500

SECTION 16.155.— To the Department of Natural Resources

For the cleanup of leaking underground storage tanks, including administrative costs

Representing expenditures originally authorized under the provisions of House Bill Section 21.195, an Act of the 95th General Assembly, First Regular Session

From Federal Stimulus Fund \$2,385,245E

SECTION 16.160.— To the Department of Conservation

For the control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wildlife resources of the state, including administrative costs

Representing expenditures originally authorized under the provisions of House Bill Section 21.205, an Act of the 95th General Assembly, First Regular Session

From Federal Stimulus Fund \$7,428,227

SECTION 16.165.— To the Department of Economic Development

For the purpose of receiving and expending National Endowment for the Arts grants

Representing expenditures originally authorized under the provisions of House Bill Section 21.215, an Act of the 95th General Assembly, First Regular Session

From Federal Stimulus Fund \$195,581

SECTION 16.170.— To the Department of Economic Development

For the purpose of receiving and expending grants for the Community Development Block Grant Program, including administrative costs. To the extent permitted by law, the department, in coordination with other departments of the state, shall contact maternity homes and pregnancy resource centers qualified under Sections 135.600 and 135.630, RSMo, regarding grants under this section, Section 16.315, and other funds under the American Recovery and Reinvestment Act of 2009 (ARRA). The departments shall make it possible for maternity homes and pregnancy resource centers in all areas of the state, including urban and "continuum of care" areas, to be eligible for grant and funding opportunities. To the extent permitted by law, the departments shall allocate at least \$2,000,000 in the aggregate from this section, Section 16.315, and other ARRA funds for grant and funding opportunities for maternity homes and pregnancy resource centers. The departments shall report in writing to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee on their efforts and on grants and funds received by maternity homes and pregnancy resource centers

Representing expenditures originally authorized under the provisions of House Bill Section 21.220, an Act of the 95th General Assembly, First Regular Session

From Federal Stimulus Fund \$6,033,938

SECTION 16.175.— To the Department of Economic Development

For the purpose of receiving and expending grants for economic development

assistance, including administrative costs
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.230, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$1,499,787E

SECTION 16.180.— To the Department of Economic Development
 For the purpose of receiving and expending grants for national and
 community service, including administrative costs
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.235, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$1,082,868

SECTION 16.185.— To the Department of Economic Development
 For the purpose of receiving and expending grants for employment service
 activities, including administrative costs
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.245, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$2,500,000

SECTION 16.190.— To the Department of Economic Development
 For the purpose of receiving and expending grants for adult, youth and
 dislocated workers employment and training activities, including
 administrative costs
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.250, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$25,000,000

SECTION 16.195.— To the Department of Economic Development
 For the purpose of receiving and expending grants for the Dislocated
 Workers Assistance National Reserve Program
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.255, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$5,493,457

SECTION 16.200.— To the Department of Economic Development
 For the purpose of receiving and expending grants for the Emerging Industry
 Competitive Grants Program
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.265, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$10,000,000

SECTION 16.205.— To the Department of Labor and Industrial Relations
 For the purpose of receiving and expending grants from the American
 Recovery and Reinvestment Act for administrative costs related to
 oversight and monitoring of compliance with worker protection laws
 and regulations and to the provision of workplace safety training

and assistance
Representing expenditures originally authorized under the provisions
of House Bill Section 21.270, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$1,000,000

SECTION 16.210.— To the Department of Labor and Industrial Relations
For administration of unemployment insurance programs
Representing expenditures originally authorized under the provisions
of House Bill Section 21.275, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$500,000E

SECTION 16.215.— To the Department of Labor and Industrial Relations
Funds are to be transferred, for payment of administrative costs, the
following amount, to the Department of Labor and Industrial Relations
Administrative Fund
Representing expenditures originally authorized under the provisions
of House Bill Section 21.285, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$96,111E

SECTION 16.220.— To the Department of Public Safety
For the purpose of receiving and expending grants from the American
Recovery and Reinvestment Act for the Rural Law Enforcement
Competitive Grant and the Byrne Memorial Competitive Grant
Representing expenditures originally authorized under the provisions
of House Bill Section 21.290, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$9,812,883

SECTION 16.225.— To the Department of Public Safety
For the purpose of receiving and expending grants for the Violence Against
Women Program, including administrative costs
Representing expenditures originally authorized under the provisions
of House Bill Section 21.295, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$2,343,214

SECTION 16.230.— To the Department of Public Safety
For the purpose of receiving and expending grants for the Crime Victims
Assistance Grants Program, including administrative costs
Representing expenditures originally authorized under the provisions
of House Bill Section 21.305, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$465,889

SECTION 16.235.— To the Department of Public Safety
For the purpose of receiving and expending grants for the Byrne/Justice
Assistance Grants Program, including \$700,000 for a pseudoephedrine
tracking system administered in conjunction with the Department of
Health and Senior Services and administrative costs to the extent the

state receives a federal grant for such purposes
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.310, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$21,828,289E

SECTION 16.240.— To the Department of Corrections
 For the purpose of receiving and expending grants from the American
 Recovery and Reinvestment Act through the Byrne Memorial
 Competitive Grant
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.315, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$1,767,334

SECTION 16.245.— To the Department of Mental Health
 For the purpose of receiving and expending grants from the American
 Recovery and Reinvestment Act for grants related to security
 enhancements at the Sexual Offender Rehabilitation and Treatment
 Services Program and health, prevention and wellness grants for
 specialized mental health training and screening programs
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.320, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$1,100,000

SECTION 16.250.— To the Department of Health and Senior Services
 For the purpose of receiving and expending grants from the American
 Recovery and Reinvestment Act for grants made available to states
 from various federal public health and health care agencies, including
 the National Institute of Health, Agency for Health Care Research
 and Quality, and Institute of Medicine
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.325, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$9,976,816

SECTION 16.255.— To the Department of Health and Senior Services
 For immunization related expenses, including administrative costs
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.330, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$827,023

SECTION 16.265.— To the Department of Health and Senior Services
 For chronic disease prevention and management, including administrative
 costs
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.345, an Act of the 95th General Assembly,
 First Regular Session
 From Federal Stimulus Fund \$5,000,000

SECTION 16.270. — To the Department of Health and Senior Services For reducing health care associated infections, including administrative costs Representing expenditures originally authorized under the provisions of House Bill Section 21.350, an Act of the 95th General Assembly, First Regular Session	
From Federal Stimulus Fund	\$890,056
 SECTION 16.275. — To the Department of Health and Senior Services For a new management information system for the Women, Infants and Children Nutrition Program Representing expenditures originally authorized under the provisions of House Bill Section 21.355, an Act of the 95th General Assembly, First Regular Session	
From Federal Stimulus Fund	\$995,797
 SECTION 16.280. — To the Department of Health and Senior Services For the Women, Infants and Children Nutrition Program, including administrative costs Representing expenditures originally authorized under the provisions of House Bill Section 21.360, an Act of the 95th General Assembly, First Regular Session	
From Federal Stimulus Fund	\$8,000,000E
 SECTION 16.285. — To the Department of Health and Senior Services For the Health Professional Loan Repayment Program Representing expenditures originally authorized under the provisions of House Bill Section 21.365, an Act of the 95th General Assembly, First Regular Session	
From Federal Stimulus Fund	\$35,000E
 SECTION 16.290. — To the Department of Health and Senior Services For Community Service Employment for Older Americans, including administrative costs Representing expenditures originally authorized under the provisions of House Bill Section 21.375, an Act of the 95th General Assembly, First Regular Session	
From Federal Stimulus Fund	\$286,077
 SECTION 16.295. — To the Department of Social Services For the purpose of receiving and expending grants related to capacity building initiatives for non-profit agencies; grants for providing services to individuals that address the economic recovery issues present in communities; grants for early childhood programs; grants to increase information and education technology, job readiness and employment services for youth in the care of the department, State Health Access Program grants; and grants for expanded treatment and education services for the Division of Youth Services Representing expenditures originally authorized under the provisions of House Bill Section 21.380, an Act of the 95th General Assembly, First Regular Session	
From Federal Stimulus Fund	\$15,000,000

SECTION 16.300.— To the Department of Social Services

For the administration of the Supplemental Nutrition Assistance Program
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.385, an Act of the 95th General Assembly,
 First Regular Session

From Federal Stimulus Fund \$3,475,356

SECTION 16.305.— To the Department of Social Services

For the payment of Temporary Assistance for Needy Families (TANF) benefits
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.390, an Act of the 95th General Assembly,
 First Regular Session

From Federal Stimulus Fund \$11,224,576

SECTION 16.310.— To the Department of Social Services

For community services programs provided by Community Action Agencies,
 including programs to assist the homeless, residents of maternity homes,
 clients of pregnancy resource centers, and women and children assisted
 under Sections 135.600, 135.630, and 188.325, RSMo, under the
 provisions of the Community Services Block Grant, including
 administrative costs
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.395, an Act of the 95th General Assembly,
 First Regular Session

From Federal Stimulus Fund \$16,286,999

SECTION 16.315.— To the Department of Social Services

For Emergency Shelter grants and services and homeless prevention
 initiatives, including administrative costs. To the extent permitted
 by law, the department, in coordination with other departments of
 the state, shall contact maternity homes and pregnancy resource
 centers qualified under Sections 135.600 and 135.630, RSMo,
 regarding grants under this section, Section 16.170 and other
 funds under the American Recovery and Reinvestment Act of
 2009 (ARRA). The departments shall make it possible for
 maternity homes and pregnancy resource centers in all areas of
 the state, including urban and "continuum of care" areas, to be
 eligible for grant and funding opportunities. To the extent
 permitted by law, the departments shall allocate at least
 \$2,000,000 in the aggregate from this section, Section 16.170,
 and other ARRA funds for grant and funding opportunities for
 maternity homes and pregnancy resource centers. The
 departments shall report in writing to the Chairman of the
 Senate Appropriations Committee and the Chairman of the
 House Budget Committee on their efforts and on grants and
 funds received by maternity homes and pregnancy resource
 centers
 Representing expenditures originally authorized under the provisions
 of House Bill Section 21.400, an Act of the 95th General Assembly,
 First Regular Session

From Federal Stimulus Fund \$10,922,786

SECTION 16.320.— To the Department of Social Services
For the Surplus Food Distribution Program and the receipt and disbursement
of Donated Commodities Program payments
Representing expenditures originally authorized under the provisions
of House Bill Section 21.405, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$589,991

SECTION 16.325.— To the Department of Social Services
For Older Individuals with Blindness services for the visually impaired
Representing expenditures originally authorized under the provisions
of House Bill Section 21.410, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$778,752

SECTION 16.330.— To the Department of Social Services
For Child Support Enforcement services and initiatives
Representing expenditures originally authorized under the provisions
of House Bill Section 21.415, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$3,333,898

SECTION 16.335.— To the Department of Social Services
For child care services and related programs and initiatives
Representing expenditures originally authorized under the provisions
of House Bill Section 21.420, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$42,234,860

SECTION 16.340.— To the Department of Social Services
For Healthcare Technology Incentives, including administrative costs
Representing expenditures originally authorized under the provisions
of House Bill Section 21.425, an Act of the 95th General Assembly,
First Regular Session
From Federal Stimulus Fund \$68,050,000

SECTION 16.345.— To the Department of Social Services
For Department of Mental Health political subdivisions
For Enhanced Medicaid Match
Representing expenditures originally authorized under the provisions
of House Bill Section 21.430, an Act of the 95th General Assembly,
First Regular Session
From Federal Budget Stabilization Fund \$241,069E

SECTION 16.350.— To the Department of Social Services
For Department of Elementary and Secondary Education political subdivisions
For Enhanced Medicaid Match
Representing expenditures originally authorized under the provisions
of House Bill Section 21.435, an Act of the 95th General Assembly,
First Regular Session
From Federal Budget Stabilization Fund \$68,854E

SECTION 16.355.— To the Department of Social Services

For Department of Social Services political subdivisions

For Enhanced Medicaid Match

Representing expenditures originally authorized under the provisions
of House Bill Section 21.440, an Act of the 95th General Assembly,
First Regular Session

From Federal Budget Stabilization Fund \$11,580,410E

SECTION 16.360.— To the Department of Social Services

For the federal share of payments to hospitals from an increase in

Missouri's Disproportionate Share Hospital (DSH)

Representing expenditures originally authorized under the provisions
of House Bill Section 21.445, an Act of the 95th General Assembly,
First Regular Session

From Federal Budget Stabilization Fund \$24,983,560

Approved June 17, 2010

HB 1270 [HB 1270]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the name of the Crippled Children's Service to the Children's Special Health Care Needs Service and specifies the services are for a child who has a physical disability or special health care need

AN ACT to repeal sections 201.010, 201.020, 201.030, 201.040, 201.050, 201.070, 201.080, and 201.090, RSMo, and to enact in lieu thereof eight new sections relating to children's special health care needs.

SECTION

- A. Enacting clause.
- 201.010. Definitions.
- 201.020. Children's special health care needs service created.
- 201.030. Functions of children's special health care needs service.
- 201.040. Children entitled to services free, when — recovery of cost of services, when, how.
- 201.050. Department of health and senior services to administer children's special health care needs service — duties.
- 201.070. Plans and regulations to conform to federal requirements.
- 201.080. Federal funds to be transmitted to service.
- 201.090. Children's special health care needs service fund — state appropriation to — surplus and trust funds invested, how.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 201.010, 201.020, 201.030, 201.040, 201.050, 201.070, 201.080, and 201.090, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 201.010, 201.020, 201.030, 201.040, 201.050, 201.070, 201.080, and 201.090, to read as follows:

201.010. DEFINITIONS. — As used in this chapter, the following terms mean:

- (1) "Administrator", the department of health and senior services;
- (2) "Child", any persons under twenty-one years of age;
- (3) "Service", the [crippled] children's **special health care needs** service;
- (4) "Services", medical, surgical, corrective, diagnostic, hospitalization, and related services, including after care, and all things reasonably incident and necessary to make the service available to the child.

201.020. CHILDREN'S SPECIAL HEALTH CARE NEEDS SERVICE CREATED. — There is created as an agency of state government, the "[Crippled] Children's **Special Health Care Needs Service**".

201.030. FUNCTIONS OF CHILDREN'S SPECIAL HEALTH CARE NEEDS SERVICE. — The [crippled] children's **special health care needs** service is designated as the agency of this state to administer a program of service to children who [are crippled or who are suffering from conditions that lead to crippling] **have a physical disability or special health care need** and to supervise the administration of the services that are included in this program. The purpose of this service is to develop, extend, and improve services for locating such children, especially in rural areas, and for providing medical, surgical, corrective and other services and care and facilities for diagnosis, hospitalization, and aftercare.

201.040. CHILDREN ENTITLED TO SERVICES FREE, WHEN — RECOVERY OF COST OF SERVICES, WHEN, HOW. — Any child residing in the state of Missouri who [is crippled or is suffering from conditions which lead to crippling] **has a physical disability or special health care need**, who is in need of services because of his **or her** condition, who has been certified by a physician of his **or her** choice as a person who can probably benefit from such services, who is financially unable to pay for such services and whose parents, guardian, or person legally chargeable with his **or her** support is unable to pay therefor, shall be entitled to such services without charge, but if any person, firm, corporation, or public or private agency is liable, either pursuant to contract or otherwise, to the parents or a recipient of services on account of personal injury to or disability or disease of the recipient of services, the service is subrogated to the right of the parent or recipient to recover from that part of the award or settlement an amount equal to the amount expended by the service for services which are not otherwise recoverable from the parent or recipient. The acceptance of services from the service constitutes acknowledgment of subrogation rights by the service, and the service may take any and all action necessary to enforce the subrogation rights. Any such child who, or whose parents, guardian, or other person legally chargeable with the support of the child, is able to pay a portion but not all of the expenses for the required services for the child, shall be entitled to the services if the child, parents, guardian or other person legally charged with the support of the child shall pay such amounts thereof to the hospital and physician as the child, parents, guardian, or other persons legally charged with the support of the child are reasonably able to pay.

201.050. DEPARTMENT OF HEALTH AND SENIOR SERVICES TO ADMINISTER CHILDREN'S SPECIAL HEALTH CARE NEEDS SERVICE — DUTIES. — 1. The department of health and senior services is designated as the administrator of the [crippled] children's **special health care needs** service.

2. The administrator:

(1) Shall formulate and administer a detailed plan or plans for the purpose of administering the service and to make and enforce such rules and regulations as are necessary or desirable for the administration of these plans and the provisions of this chapter;

(2) Shall receive and expend, in accordance with such plans, all funds made available to the service by the federal government, by the state or its political subdivisions, or from any other sources for such purposes, and it shall cooperate with the federal government in developing, improving, and extending the services and in the administration of the plans;

(3) Shall cooperate with other state departments and agencies of this state and with medical, health, nursing, and welfare groups and organizations, private or public, and endeavor to coordinate the efforts of all persons and agencies interested in the discovery, care, and rehabilitation of [crippled] children **with special health care needs**, and it is entitled to receive aid and assistance from other departments and agencies of this state in carrying out the plans adopted by the administrator;

(4) Shall receive title to property, real or personal, in all cases of gifts, devises, or bequests to the service and may act as trustee and as such receive title to property, real or personal, where given in trust for the benefit of the service.

201.070. PLANS AND REGULATIONS TO CONFORM TO FEDERAL REQUIREMENTS. — Any plan, rule, or regulation adopted by the administrator shall conform with regulations of the federal government to the extent necessary to qualify for the receipt of federal funds that may become available to the state for the treatment and care of [crippled] children **with special health care needs**.

201.080. FEDERAL FUNDS TO BE TRANSMITTED TO SERVICE. — All funds allocated by the federal government to this state for the treatment and care of [crippled] children **with special health care needs** shall be transmitted to the service.

201.090. CHILDREN'S SPECIAL HEALTH CARE NEEDS SERVICE FUND — STATE APPROPRIATION TO — SURPLUS AND TRUST FUNDS INVESTED, HOW. — All [moneys] **revenues, refunds, legal settlements, reimbursements, donations, gifts, grants, or bequests** coming to the service from any source whatsoever shall be kept by the administrator in a special fund to be designated as the "[Crippled] Children's **Special Health Care Needs Service Fund**", **which is hereby created in the state treasury**, and all expenses of the service shall be paid by the administrator from this fund. State appropriations to the [crippled] children's **special health care needs** service shall be paid to the administrator upon proper requisition therefor. Any surplus moneys in the fund not currently needed for operation expenses may be invested by the administrator in obligations of the state of Missouri or of the United States of America or obligations guaranteed by the United States of America. Any trust funds in the hands of the administrator may be invested in such manner as may be provided by law, except that any trust funds coming to the administrator with special instructions with reference to the investment thereof shall not be invested contrary to such specific instructions.

Approved June 18, 2010

HB 1311 [CCS SCS HCS HB 1311 & 1341]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes provisions regarding health insurance coverage for individuals diagnosed with autism spectrum disorders and the licensure of behavior analysts and assistant behavior analysts

AN ACT to amend chapters 337 and 376, RSMo, by adding thereto eleven new sections relating to autism spectrum disorders, with penalty provisions.

SECTION

- A. Enacting clause.
- 337.300. Definitions.
- 337.305. Advisory board created, members, terms, meetings, vacancies.
- 337.310. Board powers and duties.
- 337.315. Intervention requirements — licensure requirements — temporary licenses — practice of applied behavior analysis — violation, penalty.
- 337.320. Renewal of licensure, procedure.
- 337.325. Limitation on practice.
- 337.330. Refusal of licensure — complaint procedure.
- 337.335. Violations, penalty.
- 337.340. Fees — collection and deposit.
- 337.345. Provisional license, application procedure.
- 376.1224. Definitions — insurance coverage required — limitations on coverage — maximum benefit amount, adjustments — reimbursements, how made — applicability to plans — waiver, when — report.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 337 and 376, RSMo, are amended by adding thereto eleven new sections, to be known as sections 337.300, 337.305, 337.310, 337.315, 337.320, 337.325, 337.330, 337.335, 337.340, 337.345, and 376.1224, to read as follows:

337.300. DEFINITIONS. — **As used in sections 337.300 to 337.345, the following terms shall mean:**

(1) "Applied behavior analysis", the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationships between environment and behavior;

(2) "Board", the behavior analyst advisory board within the state committee of psychologists;

(3) "Certifying entity", the nationally accredited Behavior Analyst Certification Board, or other equivalent nationally accredited nongovernmental agency approved by the committee which certifies individuals who have completed academic, examination, training, and supervision requirements in applied behavior analysis;

(4) "Committee", the state committee of psychologists;

(5) "Division", the division of professional registration within the department of insurance, financial institutions and professional registration;

(6) "Licensed assistant behavior analyst" or "LaBA", an individual who is certified by the certifying entity as a certified assistant behavior analyst and meets the criteria in section 337.315 and as established by committee rule;

(7) "Licensed behavior analyst" or "LBA", an individual who is certified by the certifying entity as a certified behavior analyst and meets the criteria in section 337.315 and as established by committee rule;

(8) "Practice of applied behavior analysis", the application of the principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis (including principles of operant and respondent learning) to assess and improve socially important human behaviors. It includes, but is not limited to, applications of those principles, methods, and procedures to:

(a) The design, implementation, evaluation, and modification of treatment programs to change behavior of individuals;

(b) The design, implementation, evaluation, and modification of treatment programs to change behavior of groups; and

(c) Consultation to individuals and organizations.

Applied behavior analysis does not include cognitive therapies or psychological testing, personality assessment, intellectual assessment, neuropsychological assessment, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, family therapy, and long-term counseling as treatment modalities.

337.305. ADVISORY BOARD CREATED, MEMBERS, TERMS, MEETINGS, VACANCIES. —

1. There is hereby created under the state committee of psychologists within the division of professional registration the "Behavior Analyst Advisory Board". The behavior analyst advisory board shall consist of the following seven members: three licensed behavior analysts, one licensed behavior analyst holding a doctoral degree, one licensed assistant behavior analyst, one professional member of the committee, and one public member.

2. Appointments to the board shall be made by the governor upon the recommendations of the director of the division, upon the advice and consent of the senate. The division, prior to submitting nominations, shall solicit nominees from professional associations and licensed behavior analysts or licensed assistant behavior analysts in the state.

3. The term of office for board members shall be five years. In making initial appointments to the board, the governor shall stagger the terms of the appointees so that one member serves an initial term of two years, three members shall serve an initial term of three years, and three members serve initial terms of four years. Each member of the

board shall hold office until his or her successor has been qualified. A vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. A member appointed for less than a full term may serve two full terms in addition to such part of a full term.

4. Each board member shall be a resident of this state for a period of one year and a registered voter, shall be a United States citizen, and shall, other than the public member, have been a licensed behavior analyst or licensed assistant behavior analyst in this state for at least three years prior to appointment except for the original members of the board who shall have experience in the practice of applied behavior analysis.

5. The public member shall be a person who is not and never was a member of any profession licensed or regulated under sections 337.300 to 337.345 or the spouse of such person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by sections 337.300 to 337.345, or an activity or organization directly related to any profession licensed or regulated under sections 337.300 to 337.345.

6. The board shall meet at least quarterly. At one of its regular meetings, the board shall select from among its members a chairperson and a vice chairperson. A quorum of the committee shall consist of a majority of its members. In the absence of the chairperson, the vice chairperson shall conduct the office of the chairperson.

7. Each member of the board shall receive as compensation an amount set by the division not to exceed fifty dollars for each day devoted to the affairs of the board and shall be entitled to reimbursement for necessary and actual expenses incurred in the performance of the member's official duties.

8. Staff for the board shall be provided by the director of the division of professional registration.

9. The governor may remove any member of the board for misconduct, inefficiency, incompetency, or neglect of office.

All vacancies shall be filled by appointment of the governor with the advice and consent of the senate, and the member so appointed shall serve for the unexpired term.

337.310. BOARD POWERS AND DUTIES. — 1. The behavior analyst advisory board is authorized to:

(1) Review all applications for licensure and temporary licensure for behavior analysts and assistant behavior analysts and any supporting documentation submitted with the application to the committee and make recommendations to the committee regarding the resolution of the application;

(2) Review all complaints made relating to the practice of behavior analysis and make recommendations to the committee regarding investigation of the complaint, referral for discipline or other resolution of the complaint; and

(3) Review any entities responsible for certifying behavior analysts and make recommendations to the committee as to approval or disapproval of the certifying entity based on qualifications established by the committee.

2. The board shall recommend to the committee rules to be promulgated pertaining to:

(1) The form and content of license applications required and the procedures for filing an application for an initial, provisional temporary or renewal license in this state;

(2) The establishment of fees;

(3) The educational and training requirements for licensed behavior analysts and licensed assistant behavior analysts;

(4) The roles, responsibilities, and duties of licensed behavior analysts and licensed assistant behavior analysts;

- (5) The characteristics of supervision and supervised clinical practicum experience for the licensed behavior analyst and the licensed assistant behavior analyst;
- (6) The supervision of licensed assistant behavior analysts;
- (7) The requirements for continuing education for licensed behavior analysts and licensed assistant behavior analysts;
- (8) A code of conduct; and
- (9) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.300 to 337.345.

3. Only after the board's recommendation and approval by majority vote may the committee make any final decisions related to licensing, rules and regulations, complaint resolution, approval of certifying entities or any actions bearing upon the practice of applied behavior analysis unless otherwise authorized by sections 337.300 through 337.345.

4. Notwithstanding the provisions of subsection 3 of this section, until such time as the governor appoints the board and the board has a quorum, the committee shall review and resolve all applications for licensure as a licensed behavior analyst or licensed assistant behavior analyst.

5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

337.315. INTERVENTION REQUIREMENTS — LICENSURE REQUIREMENTS — TEMPORARY LICENSES — PRACTICE OF APPLIED BEHAVIOR ANALYSIS — VIOLATION, PENALTY. — 1. An applied behavior analysis intervention shall produce socially significant improvements in human behavior through skill acquisition, increase or decrease in behaviors under specific environmental conditions and the reduction of problematic behavior. An applied behavior analysis intervention shall:

(1) Be based on empirical research and the identification of functional relations between behavior and environment, contextual factors, antecedent stimuli and reinforcement operations through the direct observation and measurement of behavior, arrangement of events and observation of effects on behavior, as well as other information gathering methods such as record review and interviews; and

(2) Utilize changes and arrangements of contextual factors, antecedent stimuli, positive reinforcement, and other consequences to produce behavior change.

2. Each person wishing to practice as a licensed behavior analyst shall:

(1) Submit a complete application on a form approved by the committee;

(2) Pay all necessary fees as set by the committee;

(3) Submit a two-inch or three-inch photograph or passport photograph taken no more than six months prior to the application date;

(4) Provide two classified sets of fingerprints for processing by the Missouri state highway patrol under section 43.543. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files;

(5) Have passed an examination and been certified as a board certified behavior analyst by a certifying entity, as defined in section 337.300;

(6) Provide evidence of active status as a board certified behavior analyst; and

(7) If the applicant holds a license as a behavior analyst in another state, a statement from all issuing states verifying licensure and identifying any disciplinary action taken against the license holder by that state.

3. Each person wishing to practice as a licensed assistant behavior analyst shall:

(1) Submit a complete application on a form approved by the committee;
(2) Pay all necessary fees as set by the committee;
(3) Submit a two-inch or three-inch photograph or passport photograph taken no more than six months prior to the application date;

(4) Provide two classified sets of fingerprints for processing by the Missouri state highway patrol under section 43.543. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files;

(5) Have passed an examination and been certified as a board certified assistant behavior analyst by a certifying entity, as defined in section 337.300;

(6) Provide evidence of active status as a board certified assistant behavior analyst;

(7) If the applicant holds a license as an assistant behavior analyst in another state, a statement from all issuing states verifying licensure and identifying any disciplinary action taken against the license holder by that state; and

(8) Submit documentation satisfactory to the committee that the applicant will be directly supervised by a licensed behavior analyst in a manner consistent with the certifying entity.

4. The committee shall be authorized to issue a temporary license to an applicant for a behavior analyst license or assistant behavior analyst license upon receipt of a complete application for behavior analyst or assistant behavior analyst or a showing of valid licensure as a behavior analyst in another state, only if the applicant has submitted fingerprints and no disqualifying criminal history appears on the family care safety registry. The temporary license shall expire upon issuance of a license or denial of the application but no later than ninety days from issuance of the temporary license. Upon written request to the committee, the holder of a temporary license shall be entitled to one extension of ninety days of the temporary license.

5. No person shall hold himself or herself out to be licensed behavior analysts or LBA, licensed assistant behavior analysts or LaBA in the state of Missouri unless they meet the applicable requirements.

6. No persons shall practice applied behavior analysis unless they are:

(1) Licensed behavior analysts;
(2) Licensed assistant behavior analysts working under the supervision of a licensed behavior analyst;

(3) An individual who has a bachelor's or graduate degree and completed course work for licensure as a behavior analyst and is obtaining supervised field experience under a licensed behavior analyst pursuant to required supervised work experience for licensure at the behavior analyst or assistant behavior analyst level; or

(4) Licensed psychologists practicing within the rules and standards of practice for psychologists in the state of Missouri and whose practice is commensurate with their level of training and experience.

7. Notwithstanding the provisions in subsection 6 of this section, any licensed or certified professional may practice components of applied behavior analysis, as defined in section 337.300 if he or she is acting within his or her applicable scope of practice and ethical guidelines.

8. All licensed behavior analysts and licensed assistant behavior analysts shall be bound by the code of conduct adopted by the committee by rule.

9. Licensed assistant behavior analysts shall work under the direct supervision of a licensed behavior analyst as established by committee rule.

10. Persons who provide services under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., or Section 504 of the federal Rehabilitation Act of 1973, 20 U.S.C. Section 794, or are enrolled in a course of study at a recognized educational institution through which the person provides applied behavior analysis as part of supervised clinical experience shall be exempt from the requirements of this section.

11. A violation of this section shall be punishable by probation, suspension, or loss of any license held by the violator.

337.320. RENEWAL OF LICENSURE, PROCEDURE. — 1. The division shall mail a renewal notice to the last known address of each licensee or registrant prior to the renewal date.

2. Each person wishing to renew the behavior analyst license or the assistant behavior analyst license shall:

- (1) Submit a complete application on a form approved by the committee;
- (2) Pay all necessary fees as set by the committee; and
- (3) Submit proof of active certification and fulfillment of all requirements for renewal and recertification with the certifying entity.

3. Failure to provide the division with documentation required by subsection 2 of this section or other information required for renewal shall effect a revocation of the license after a period of sixty days from the renewal date.

4. Each person wishing to restore the license, within two years of the renewal date, shall:

- (1) Submit a complete application on a form approved by the committee;
- (2) Pay the renewal fee and a delinquency fee as set by the committee; and
- (3) Submit proof of current certification from a certifying body approved by the committee.

5. A new license to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the committee, upon payment of a fee established by the committee.

6. The committee shall set the amount of the fees authorized by sections 337.300 to 337.345 and required by rules promulgated under section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 337.300 to 337.345.

7. The committee is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the committee and remits the fee for an inactive license established by the committee. An inactive license may be issued only to a person who has previously been issued a license to practice as a licensed behavior analyst or a licensed assistant behavior analyst who is no longer regularly engaged in such practice and who does not hold himself or herself out to the public as being professionally engaged in such practice in this state. Each inactive license shall be subject to all provisions of this chapter, except as otherwise specifically provided. Each inactive license may be renewed by the committee subject to all provisions of this section and all other provisions of this chapter. The inactive licensee shall not be required to submit evidence of completion of continuing education as required by this chapter.

8. An inactive licensee may apply for a license to regularly engage in the practice of behavioral analysis by:

- (1) Submitting a complete application on a form approved by the committee;
 - (2) Paying the reactivation fee as set by the committee; and
 - (3) Submitting proof of current certification from a certifying body approved by the committee.
-

337.325. LIMITATION ON PRACTICE. — A licensed behavior analyst and licensed assistant behavior analyst shall limit his or her practice to demonstrated areas of competence as documented by relevant professional education, training, or experience. A licensed behavior analyst and licensed assistant behavior analyst trained in one area shall not practice in another area without obtaining additional relevant professional education, training, and experience.

337.330. REFUSAL OF LICENSURE — COMPLAINT PROCEDURE. — 1. The committee may refuse to issue any license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The committee may cause a complaint to be filed with the administrative hearing commission, as provided by chapter 621, against any holder of any license required by this chapter or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any permit or license issued under this chapter or in obtaining permission to take any examination given or required under sections 337.300 to 337.345;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed by sections 337.300 to 337.345;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.300 to 337.345, or of any lawful rule adopted thereunder;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 337.300 to 337.345 granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 337.300 to 337.345 who is not registered and currently eligible to practice as provided in sections 337.300 to 337.345;

(11) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by sections 337.300 to 337.345 or any rule promulgated thereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Being guilty of unethical conduct as defined in the code of conduct as adopted by the committee and filed with the secretary of state.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the department deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

337.335. VIOLATIONS, PENALTY. — 1. Any person found guilty of violating any provision of sections 337.300 to 337.345 is guilty of a class A misdemeanor and upon conviction thereof shall be punished as provided by law.

2. All fees or other compensation received for services rendered in violation of sections 337.300 to 337.345 shall be refunded.

3. The committee shall inquire as to any violation of any provision of sections 337.300 to 337.345 and may institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections 337.300 to 337.345.

4. Any person, organization, association or corporation who reports or provides information to the committee or the division under sections 337.300 to 337.345 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

5. Upon application by the committee the attorney general may on behalf of the committee request that a court of competent jurisdiction grant an injunction, restraining order, or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit, or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit, or license issued under sections 337.300 to 337.345 upon a showing that the holder presents a substantial probability of serious harm to the health, safety, or welfare of any resident of this state or client or patient of the licensee.

6. Any action brought under the provisions of this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

7. Any action brought under this section may be in addition to or in lieu of any penalty provided by sections 337.300 to 337.345 and may be brought concurrently with other actions to enforce sections 337.300 to 337.345.

337.340. FEES — COLLECTION AND DEPOSIT. — All fees authorized under sections 337.300 to 337.345 shall be collected by the director of the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the state committee of psychologists fund.

337.345. PROVISIONAL LICENSE, APPLICATION PROCEDURE. — 1. Prior to August 28, 2012, each person desiring to obtain a provisional license shall make application to the committee upon such forms and in such manner as may be prescribed by the committee and shall pay the required application fee. The application fee shall not be refundable.

Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the application, subject to the penalties of making a false affidavit or declaration.

2. For a provisional behavior analyst license, the applicant shall:

(1) Submit a two-inch or three-inch photograph or passport photograph taken no more than six months prior to the application date, and only if the applicant has submitted fingerprints and no disqualifying criminal history appears on the family care safety registry;

(2) Have passed an examination and been certified as a board certified behavior analyst by the Behavior Analyst Certification Board or a certifying entity listed in subdivision (3) of section 337.300; and

(3) Provide evidence of active status as a board certified behavior analyst.

3. For a provisional assistant behavior analyst license, the applicant shall:

(1) Submit a two-inch or three-inch photograph or passport photograph taken no more than six months prior to the application date, and only if the applicant has submitted fingerprints and no disqualifying criminal history appears on the family care safety registry;

(2) Have passed an examination and been certified as a board certified assistant behavior analyst by a certifying entity listed in subdivision (3) of section 337.300;

(3) Provide evidence of active status as a board certified assistant behavior analyst; and

(4) Submit documentation satisfactory to the board that the applicant will be directly supervised by a licensed behavior analyst in a manner consistent with the certifying entity.

4. Each applicant for provisional licensure shall meet the applicable requirements of section 337.315 within three months of the date of issuance of the provisional license.

5. The provisional license shall be effective only until the later to occur of:

(1) Grant or rejection of a license pursuant to section 337.315; or

(2) August 28, 2012.

The holder of a provisional license which has not expired, been suspended, or revoked, shall be deemed to be the holder of a license issued under section 337.315 until such provisional license expires, is suspended, or revoked.

376.1224. DEFINITIONS — INSURANCE COVERAGE REQUIRED — LIMITATIONS ON COVERAGE — MAXIMUM BENEFIT AMOUNT, ADJUSTMENTS — REIMBURSEMENTS, HOW MADE — APPLICABILITY TO PLANS — WAIVER, WHEN — REPORT. — 1. For purposes of this section, the following terms shall mean:

(1) "Applied behavior analysis", the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationships between environment and behavior;

(2) "Autism service provider":

(a) Any person, entity, or group that provides diagnostic or treatment services for autism spectrum disorders who is licensed or certified by the state of Missouri; or

(b) Any person who is licensed under chapter 337 as a board certified behavior analyst by the behavior analyst certification board or licensed under chapter 337 as an assistant board certified behavior analyst;

(3) "Autism spectrum disorders", a neurobiological disorder, an illness of the nervous system, which includes Autistic Disorder, Asperger's Disorder, Pervasive Developmental Disorder Not Otherwise Specified, Rett's Disorder, and Childhood Disintegrative

Disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association;

(4) "Diagnosis of autism spectrum disorders", medically necessary assessments, evaluations, or tests in order to diagnose whether an individual has an autism spectrum disorder;

(5) "Habilitative or rehabilitative care", professional, counseling, and guidance services and treatment programs, including applied behavior analysis, that are necessary to develop the functioning of an individual;

(6) "Health benefit plan", shall have the same meaning ascribed to it as in section 376.1350;

(7) "Health carrier", shall have the same meaning ascribed to it as in section 376.1350;

(8) "Line therapist", an individual who provides supervision of an individual diagnosed with an autism diagnosis and other neurodevelopmental disorders pursuant to the prescribed treatment plan, and implements specific behavioral interventions as outlined in the behavior plan under the direct supervision of a licensed behavior analyst;

(9) "Pharmacy care", medications used to address symptoms of an autism spectrum disorder prescribed by a licensed physician, and any health-related services deemed medically necessary to determine the need or effectiveness of the medications only to the extent that such medications are included in the insured's health benefit plan;

(10) "Psychiatric care", direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices;

(11) "Psychological care", direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices;

(12) "Therapeutic care", services provided by licensed speech therapists, occupational therapists, or physical therapists;

(13) "Treatment for autism spectrum disorders", care prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist, including, equipment medically necessary for such care, pursuant to the powers granted under such licensed physician's or licensed psychologist's license, including, but not limited to:

(a) Psychiatric care;

(b) Psychological care;

(c) Habilitative or rehabilitative care, including applied behavior analysis therapy;

(d) Therapeutic care;

(e) Pharmacy care.

2. All group health benefit plans that are delivered, issued for delivery, continued, or renewed on or after January 1, 2011, if written inside the state of Missouri, or written outside the state of Missouri but insuring Missouri residents, shall provide coverage for the diagnosis and treatment of autism spectrum disorders to the extent that such diagnosis and treatment is not already covered by the health benefit plan.

3. With regards to a health benefit plan, a health carrier shall not deny or refuse to issue coverage on, refuse to contract with, or refuse to renew or refuse to reissue or otherwise terminate or restrict coverage on an individual or their dependent because the individual is diagnosed with autism spectrum disorder.

4. (1) Coverage provided under this section is limited to medically necessary treatment that is ordered by the insured's treating licensed physician or licensed psychologist, pursuant to the powers granted under such licensed physician's or licensed psychologist's license, in accordance with a treatment plan;

(2) The treatment plan, upon request by the health benefit plan or health carrier, shall include all elements necessary for the health benefit plan or health carrier to pay

claims. Such elements include, but are not limited to, a diagnosis, proposed treatment by type, frequency and duration of treatment, and goals;

(3) Except for inpatient services, if an individual is receiving treatment for an autism spectrum disorder, a health carrier shall have the right to review the treatment plan not more than once every six months unless the health carrier and the individual's treating physician or psychologist agree that a more frequent review is necessary. Any such agreement regarding the right to review a treatment plan more frequently shall only apply to a particular individual being treated for an autism spectrum disorder and shall not apply to all individuals being treated for autism spectrum disorders by a physician or psychologist. The cost of obtaining any review or treatment plan shall be borne by the health benefit plan or health carrier, as applicable.

5. Coverage provided under this section for applied behavior analysis shall be subject to a maximum benefit of forty thousand dollars per calendar year for individuals through eighteen years of age. Such maximum benefit limit may be exceeded, upon prior approval by the health benefit plan, if the provision of applied behavior analysis services beyond the maximum limit is medically necessary for such individual. Payments made by a health carrier on behalf of a covered individual for any care, treatment, intervention, service or item, the provision of which was for the treatment of a health condition unrelated to the covered individual's autism spectrum disorder, shall not be applied toward any maximum benefit established under this subsection. Any coverage required under this section, other than the coverage for applied behavior analysis, shall not be subject to the age and dollar limitations described in this subsection.

6. The maximum benefit limitation for applied behavior analysis described in subsection 5 of this section shall be adjusted by the health carrier at least triennially for inflation to reflect the aggregate increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially published by the United States Department of Labor, or its successor agency. Beginning January 1, 2012, and annually thereafter, the current value of the maximum benefit limitation for applied behavior analysis coverage adjusted for inflation in accordance with this subsection shall be calculated by the director of the department of insurance, financial institutions and professional registration. The director shall furnish the calculated value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021.

7. Subject to the provisions set forth in subdivision (3) of subsection 4 of this section, coverage provided under this section shall not be subject to any limits on the number of visits an individual may make to an autism service provider, except that the maximum total benefit for applied behavior analysis set forth in subsection 5 of this section shall apply to this subsection.

8. This section shall not be construed as limiting benefits which are otherwise available to an individual under a health benefit plan. The health care coverage required by this section shall not be subject to any greater deductible, coinsurance, or co-payment than other physical health care services provided by a health benefit plan. Coverage of services may be subject to other general exclusions and limitations of the contract or benefit plan, not in conflict with the provisions of this section, such as coordination of benefits, exclusions for services provided by family or household members, and utilization review of health care services, including review of medical necessity and care management; however, coverage for treatment under this section shall not be denied on the basis that it is educational or habilitative in nature.

9. To the extent any payments or reimbursements are being made for applied behavior analysis, such payments or reimbursements shall be made to either:

(1) The autism service provider, as defined in this section; or

(2) The entity or group for whom such supervising person, who is certified as a board certified behavior analyst by the Behavior Analyst Certification Board, works or is associated.

Such payments or reimbursements under this subsection to an autism service provider or a board certified behavior analyst shall include payments or reimbursements for services provided by a line therapist under the supervision of such provider or behavior analyst if such services provided by the line therapist are included in the treatment plan and are deemed medically necessary.

10. Notwithstanding any other provision of law to the contrary, health carriers shall not be held liable for the actions of line therapists in the performance of their duties.

11. The provisions of this section shall apply to any health care plans issued to employees and their dependents under the Missouri consolidated health care plan established pursuant to chapter 103, that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2011. The terms "employees" and "health care plans" shall have the same meaning ascribed to them in section 103.003.

12. The provisions of this section shall also apply to the following types of plans that are established, extended, modified, or renewed on or after January 1, 2011:

(1) All self-insured governmental plans, as that term is defined in 29 U.S.C. Section 1002(32);

(2) All self-insured group arrangements, to the extent not preempted by federal law;

(3) All plans provided through a multiple employer welfare arrangement, or plans provided through another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, or any waiver or exception to that act provided under federal law or regulation; and

(4) All self-insured school district health plans.

13. The provisions of this section shall not automatically apply to an individually underwritten health benefit plan, but shall be offered as an option to any such plan.

14. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policy of six months or less duration, or any other supplemental policy.

15. Any health carrier or other entity subject to the provisions of this section shall not be required to provide reimbursement for the applied behavior analysis delivered to a person insured by such health carrier or other entity to the extent such health carrier or other entity is billed for such services by any Part C early intervention program or any school district for applied behavior analysis rendered to the person covered by such health carrier or other entity. This section shall not be construed as affecting any obligation to provide services to an individual under an individualized family service plan, an individualized education plan, or an individualized service plan. This section shall not be construed as affecting any obligation to provide reimbursement pursuant to section 376.1218.

16. The provisions of sections 376.383, 376.384, and 376.1350 to 376.1399 shall apply to this section.

17. The director of the department of insurance, financial institutions and professional registration shall grant a small employer with a group health plan, as that term is defined in section 379.930, a waiver from the provisions of this section if the small employer demonstrates to the director by actual claims experience over any consecutive twelve month period that compliance with this section has increased the cost of the health insurance policy by an amount of two and a half percent or greater over the period of a calendar year in premium costs to the small employer.

18. The provisions of this section shall not apply to the Mo HealthNet program as described in chapter 208.

19. (1) By February 1, 2012, and every February first thereafter, the department of insurance, financial institutions and professional registration shall submit a report to the general assembly regarding the implementation of the coverage required under this section. The report shall include, but shall not be limited to, the following:

- (a) The total number of insureds diagnosed with autism spectrum disorder;
 - (b) The total cost of all claims paid out in the immediately preceding calendar year for coverage required by this section;
 - (c) The cost of such coverage per insured per month; and
 - (d) The average cost per insured for coverage of applied behavior analysis;
- (2) All health carriers and health benefit plans subject to the provisions of this section shall provide the department with the data requested by the department for inclusion in the annual report.

Approved June 10, 2010

HB 1316 [SCS HCS HB 1316]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the collection of property taxes and the assessment of property

AN ACT to repeal sections 52.230, 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 67.110, 92.715, 137.180, 137.243, 137.355, 138.431, 139.031, 139.040, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.100, 140.110, 140.150, 140.160, 140.170, 140.190, 140.230, 140.250, 140.260, 140.290, 140.310, 140.340, 140.405, 140.420, 141.830, and 165.071, RSMo, and to enact in lieu thereof forty-six new sections relating to property taxes.

SECTION

- A. Enacting clause.
- 52.230. Statements and receipts mailed to taxpayers, when, contents (counties of the second, third, fourth and first classification).
- 52.290. Collection of back taxes, certain counties — fee deposited in county general revenue fund and retirement fund — collection of back taxes, certain political subdivisions, fee.
- 52.312. Tax maintenance fund established, use of money.
- 52.361. Back tax books, duty to prepare.
- 52.370. Disbursements, how made.
- 54.010. Office created — election.
- 55.140. Access to all licenses (second class and certain first class counties).
- 55.190. Collector to provide daily report to auditor (second class and certain first class counties).
- 67.110. Fixing ad valorem property tax rates, procedure — failure to establish, effect — new or increased taxes approved after September 1 not to be included in that year's tax levy, exception.
- 92.715. Collectors to act — redemption, interest and costs — compromise of judgment — errors, correction of.
- 137.180. Valuation increased — assessor to notify owner — appeals to county board of equalization — notice to owners required, when, contents.
- 137.243. Projected tax liability, assessor to provide clerk with assessment book — abstract required — political subdivisions to informally project a nonbinding tax levy, procedure.
- 137.355. Notice of increased assessment of listed property — notice to owners, when, contents.
- 138.431. Hearing officers of tax commission to hear appeals, when, procedure — appeal of hearing officer's decision, how.

- 139.031. Payment of current taxes under protest — action, when commenced, how tried — refunds, how made, may be used as credit for next year's taxes — interest, when allowed — collector to invest protested taxes, disbursal to taxing authorities, when.
- 139.040. Acceptable medium of exchange in payment of taxes.
- 139.140. Delivery of personal delinquent list to successor.
- 139.150. Duplicate receipts — exceptions.
- 139.210. Monthly statements and payments.
- 139.220. Payment into county treasury — duplicate receipts.
- 140.050. Clerk to make back tax book — delivery to collector, collection — correction of omissions.
- 140.070. Delinquent real estate taxes extended into back tax book.
- 140.080. County clerk and collector, comparison of lists — clerk's certification.
- 140.100. Penalty against delinquent lands.
- 140.110. Collection of back taxes, payments applied, how, exceptions — removal of lien.
- 140.150. Lands, lots, mineral rights, and royalty interests subject to sale, when.
- 140.160. Limitation of actions, exceptions — county auditor to annually audit.
- 140.170. County collector to publish delinquent land list — contents — site of sale — expenses — publisher's affidavit to be recorded — exception for certain property, contents of list.
- 140.190. Period of sale — manner of bids — prohibited sales — sale to nonresidents.
- 140.230. Foreclosure sale surplus — deposited in treasury — escheats, when.
- 140.250. Third offering of delinquent lands and lots, redemption — subsequent sale — collector's deed.
- 140.260. Purchase by county or city, when — procedure.
- 140.290. Certificate of purchase — contents — fees — nonresidents.
- 140.310. Possession by purchaser, when — rents — rights of occupant and purchaser.
- 140.340. Redemption, when — manner.
- 140.405. Purchaser of property at delinquent land tax auction, deed issued to, when — notice of right of redemption — redemption of property first, when — loss of interest, when.
- 140.420. Deed to purchaser if unredeemed.
- 141.535. Sale of parcel under tax foreclosure judgment stayed, when (Jackson County).
- 141.830. Collection of back taxes — redemption, interest and costs (St. Louis).
- 165.071. County collector-treasurer to pay over school district moneys monthly (seven-director districts).
- 184.500. Definitions
- 184.503. Creation of district and sales tax authorized—ballot language—sales tax revenue, use of—withdrawal from district, procedure.
- 184.506. Commission to govern, members, terms, meetings, quorum—immunity for members.
- 184.509. Seal and bylaws—power to contract—borrowing of moneys, when—support for activities, considerations—annual report.
- 184.512. Administration, funding of — record-keeping requirements.
- 246.310. Inapplicability of certain law regarding abeyance of water and sewer assessments.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 52.230, 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 67.110, 92.715, 137.180, 137.243, 137.355, 138.431, 139.031, 139.040, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.100, 140.110, 140.150, 140.160, 140.170, 140.190, 140.230, 140.250, 140.260, 140.290, 140.310, 140.340, 140.405, 140.420, 141.830, and 165.071, RSMo, are repealed and forty-six new sections enacted in lieu thereof, to be known as sections 52.230, 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 67.110, 92.715, 137.180, 137.243, 137.355, 138.431, 139.031, 139.040, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.100, 140.110, 140.150, 140.160, 140.170, 140.190, 140.230, 140.250, 140.260, 140.290, 140.310, 140.340, 140.405, 140.420, 141.535, 141.830, 165.071, 184.500, 184.503, 184.506, 184.509, 184.512, 246.310, to read as follows:

52.230. STATEMENTS AND RECEIPTS MAILED TO TAXPAYERS, WHEN, CONTENTS (COUNTIES OF THE SECOND, THIRD, FOURTH AND FIRST CLASSIFICATION). — Each year the collectors of revenue in all counties of the first class not having a charter form of government, and in all second, third and fourth class counties of the state, not under township organization, shall mail to all resident taxpayers, at least thirty days prior to delinquent date, a statement of all real and tangible personal property taxes due and assessed on the current tax books in the name of the taxpayers. Such statement shall also include the amount of real and tangible personal property taxes delinquent at the time of the mailing of the statement, including any interest and

penalties associated with the delinquent taxes. Such statement shall declare upon its face, or by an attachment thereto, that they are delinquent at the time such statement is mailed for an amount of real or tangible personal property taxes, or both. **A collector of revenue or other collection authority charged with the duty of tax or license collection may refuse to accept payment not accompanied by such statement. Refusal by the collector of revenue to accept payment not accompanied by such statement shall not relieve or delay the levy of interest and penalty on any overdue unpaid tax or license.** Collectors shall also mail tax receipts for all the taxes received by mail.

52.290. COLLECTION OF BACK TAXES, CERTAIN COUNTIES — FEE DEPOSITED IN COUNTY GENERAL REVENUE FUND AND RETIREMENT FUND — COLLECTION OF BACK TAXES, CERTAIN POLITICAL SUBDIVISIONS, FEE. — 1. In all counties except counties having a charter form of government **before January 1, 2008**, and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312 and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo. **Notwithstanding provisions of law to the contrary, an authorization for collection of a fee for the collection of delinquent and back taxes in a county's charter, at a rate different than the rate allowed by law, shall control.**

2. In all counties having a charter form of government, **other than any county adopting a charter form of government after January 1, 2008**, and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax except that in a county with a charter form of government and with more than two hundred fifty thousand but less than seven hundred thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. If a county is required by section 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection shall be paid into the county general fund.

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector may charge a surcharge for payment by credit card.

52.312. TAX MAINTENANCE FUND ESTABLISHED, USE OF MONEY. — Notwithstanding any provisions of law to the contrary, in addition to fees provided for in this chapter, or any other provisions of law in conflict with the provisions of this section, all counties, including any county **adopting a charter form of government after January 1, 2008, and any county** with a charter form of government and with more than two hundred fifty thousand but less than seven hundred thousand inhabitants, other than counties having a charter form of government **before January 1, 2008**, and any city not within a county, subject to the provisions of this section, shall establish a fund to be known as the "Tax Maintenance Fund" to be used solely as a depository for funds received or collected for the purpose of funding additional costs and expenses incurred in the office of collector.

52.361. BACK TAX BOOKS, DUTY TO PREPARE. — It shall be the duty of the county collector in all counties of the first class not having a charter form of government and in class

two counties to prepare and keep in [his] **the collector's** office, **electronically or otherwise**, back tax books which shall contain and list all delinquent taxes on real and personal property levied and assessed in the county which remain due and unpaid after the first day of January of each year. Such back tax books shall replace and be in lieu of all "delinquent lists" and other back tax books heretofore prepared by the collector or other county officer.

52.370. DISBURSEMENTS, HOW MADE. — All money disbursed by the county collector in counties of the first class not having a charter form of government and in counties of the second class by virtue of [his] **the collector's** office shall be paid by **electronic transfer of funds from the collector's account into the accounts of the appropriate taxing authorities or by check** signed by the collector and countersigned by the auditor of the county. **All disbursements shall be documented by the collector and certified by the auditor.**

54.010. OFFICE CREATED — ELECTION. — 1. There is created in all the counties of this state the office of county treasurer, except that in those counties having adopted the township alternative form of county government the qualified electors shall elect a county collector-treasurer.

2. In counties of classes one and two the qualified electors shall elect a county treasurer at the general election in 1956 and every four years thereafter.

3. In counties of the third and fourth classifications the qualified electors shall elect a county treasurer at the general election in the year 1954, and every four years thereafter, except that in those counties having adopted the township alternative form of county government the qualified electors shall elect a county collector-treasurer at the November election in 1956, and every four years thereafter.

4. Laws generally applicable to county collectors, their offices, clerks, and deputies shall apply to and govern county collector-treasurers in counties having township organization, except when such general laws and such laws applicable to counties of the third and fourth classification conflict with the laws specifically applicable to county collector-treasurers, their offices, clerks, and deputies in counties having township organization, in which case, such laws shall govern.

5. In the event a county of the third or fourth classification abolishes its township form of government under chapter 65, the county collector-treasurer shall assume all duties, compensation, fee schedules, and requirements of the collector-treasurer provided under sections 54.280 and 54.320.

55.140. ACCESS TO ALL LICENSES (SECOND CLASS AND CERTAIN FIRST CLASS COUNTIES). — The county auditor of each county of the first class not having a charter form of government and of each county of the second class shall [countersign] **have access to all records, collections, and settlements for** all licenses issued by the county and shall [keep a record of the number, date of issue,] **receive a monthly listing from each office issuing the licenses stating** the name of the party or parties to whom issued[, the occupation, the expiration thereof, and amount of money paid therefor, and to whom paid].

55.190. COLLECTOR TO PROVIDE DAILY REPORT TO AUDITOR (SECOND CLASS AND CERTAIN FIRST CLASS COUNTIES). — The county collector of revenue of each county of the first class not having a charter form of government and of each county of the second class shall [make] **provide, electronically or otherwise**, a daily report to the auditor of receipts [and balance in his hands, and where deposited], and shall deliver to the auditor each day a deposit slip showing the day's deposit. The collector shall, upon receiving taxes, give [duplicate] a numbered tax [receipts, which] **receipt to** the taxpayer [shall take to the auditor to be countersigned by him, one of which the auditor shall retain, and charge the amount thereof to the collector]. The collector shall also [make] **provide, electronically or otherwise**, a daily report to the auditor of all other sums of money collected by [him] **the collector** from any source

whatsoever, and in such report shall state [from whom collected, and] on what account[, which sums shall be charged by the auditor to the collector] **collected**. The collector shall[, upon turning] **turn** money over to the county treasurer[, take duplicate receipts therefor and file same immediately with the county auditor] **under section 139.210**.

67.110. FIXING AD VALOREM PROPERTY TAX RATES, PROCEDURE — FAILURE TO ESTABLISH, EFFECT — NEW OR INCREASED TAXES APPROVED AFTER SEPTEMBER 1 NOT TO BE INCLUDED IN THAT YEAR'S TAX LEVY, EXCEPTION. — 1. Each political subdivision in the state, except counties and any political subdivision located at least partially within any county with a charter form of government or any political subdivision located at least partially within any city not within a county, shall fix its ad valorem property tax rates as provided in this section not later than September first for entry in the tax books. Each political subdivision located, at least partially, within a county with a charter form of government or within a city not within a county shall fix its ad valorem property tax rates as provided in this section not later than October first for entry in the tax books for each calendar year after December 31, 2008. Before the governing body of each political subdivision of the state, except counties, as defined in section 70.120, RSMo, fixes its rate of taxation, its budget officer shall present to its governing body the following information for each tax rate to be levied: the assessed valuation by category of real, personal and other tangible property in the political subdivision as entered in the tax book for the fiscal year for which the tax is to be levied, as provided by subsection 3 of section 137.245, RSMo, the assessed valuation by category of real, personal and other tangible property in the political subdivisions for the preceding taxable year, the amount of revenue required to be provided from the property tax as set forth in the annual budget adopted as provided by this chapter, and the tax rate proposed to be set. Should any political subdivision whose taxes are collected by the county collector of revenue fail to fix its ad valorem property tax rate by [September first] **the date provided under this section for such political subdivision**, then no tax rate other than the rate, if any, necessary to pay the interest and principal on any outstanding bonds shall be certified for that year.

2. The governing body shall hold at least one public hearing on the proposed rates of taxes at which citizens shall be heard prior to their approval. The governing body shall determine the time and place for such hearing. A notice stating the hour, date and place of the hearing shall be published in at least one newspaper qualified under the laws of the state of Missouri of general circulation in the county within which all or the largest portion of the political subdivision is situated, or such notice shall be posted in at least three public places within the political subdivision; except that, in any county of the first class having a charter form of government, such notice may be published in a newspaper of general circulation within the political subdivision even though such newspaper is not qualified under the laws of Missouri for other legal notices. Such notice shall be published or posted at least seven days prior to the date of the hearing. The notice shall include the assessed valuation by category of real, personal and other tangible property in the political subdivision for the fiscal year for which the tax is to be levied as provided by subsection 3 of section 137.245, RSMo, the assessed valuation by category of real, personal and other tangible property in the political subdivision for the preceding taxable year, for each rate to be levied the amount of revenue required to be provided from the property tax as set forth in the annual budget adopted as provided by this chapter, and the tax rates proposed to be set for the various purposes of taxation. The tax rates shall be calculated to produce substantially the same revenues as required in the annual budget adopted as provided in this chapter. Following the hearing the governing body of each political subdivision shall fix the rates of taxes, the same to be entered in the tax book. Failure of any taxpayer to appear at such hearing shall not prevent the taxpayer from pursuit of any other legal remedy otherwise available to the taxpayer. Nothing in this section absolves political subdivisions of responsibilities under section 137.073, RSMo, nor to adjust tax rates in event changes in assessed valuation occur that would alter the tax rate calculations.

3. Each political subdivision of the state shall fix its property tax rates in the manner provided in this section for each fiscal year which begins after December 31, 1976. New or increased tax rates for political subdivisions whose taxes are collected by the county collector approved by voters after September first of any year shall not be included in that year's tax levy except for any new tax rate ceiling approved pursuant to section 71.800, RSMo.

4. In addition to the information required under subsections 1 and 2 of this section, each political subdivision shall also include the increase in tax revenue due to an increase in assessed value as a result of new construction and improvement and the increase, both in dollar value and percentage, in tax revenue as a result of reassessment if the proposed tax rate is adopted."; and

92.715. COLLECTORS TO ACT — REDEMPTION, INTEREST AND COSTS — COMPROMISE OF JUDGMENT — ERRORS, CORRECTION OF. — 1. The collectors of cities operating under the provisions of sections 92.700 to 92.920 shall proceed to collect the taxes contained in the back tax book or [record] **recorded** list of the delinquent land and lots in the collector's office as herein required.

2. Any person interested in or the owner of any tract of land or lot contained in the back tax book or in the recorded list of delinquent lands and lots in the collector's office may redeem such tract of land or town lot, or any part thereof, from the state's or such city's lien thereon, by paying to the proper collector the amount of the original taxes, together with interest from the date of delinquency at the rate of [one] **two** percent per month with a maximum rate of [ten] **eighteen** percent per annum and the costs. [For any delinquency occurring after January 1, 2000, the rate shall not exceed the prime rate, which shall mean the average predominant prime rate quoted by commercial banks to large businesses, as determined by the board of governors of the Federal Reserve System.]

3. If suit shall have been commenced against any tract of land or town lot for the collection of taxes, the person desiring to redeem any such land before judgment, in addition to the original tax, interest and costs including attorney's fee accruing under this law, shall pay to the city collector all necessary costs incurred in the court where the suit is pending, and the city collector shall account to the clerk of the court in which said suit is filed for the court costs so collected.

4. The provisions of the law with reference to the compromise of taxes shown on the back tax book or recorded list of delinquent land and lots in the collector's office shall apply to and shall also authorize the compromise of any judgment for taxes after the same had been rendered therefor and up to that time when the property shall be sold under execution issued on said judgment; such compromise to be authorized by the same officials and under the same conditions as set forth under existing law for the compromise of taxes. The comptroller of any city operating under the provisions of sections 92.700 to 92.920 shall serve in lieu of the county commission. The comptroller shall also have the right to correct manifest errors.

137.180. VALUATION INCREASED — ASSESSOR TO NOTIFY OWNER — APPEALS TO COUNTY BOARD OF EQUALIZATION — NOTICE TO OWNERS REQUIRED, WHEN, CONTENTS. — 1. Whenever any assessor shall increase the valuation of any real property he shall forthwith notify the record owner of such increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of equalization whereat the landowner shall be entitled to be heard, and the notice to the landowner shall so state.

2. Effective January 1, 2009, for all counties with a charter form of government, **other than any county adopting a charter form of government after January 1, 2008**, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of such increase and, in a year of general reassessment, the county shall notify the record owner of the projected tax liability likely to result from such an increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of

equalization whereat the landowner shall be entitled to be heard, and the notice to the landowner shall so state. Notice of the projected tax liability from the county shall accompany the notice of increased valuation from the assessor.

3. For all calendar years prior to the first day of January of the year following receipt of software necessary for the implementation of the requirements provided under subsections 4 and 5 of this section from the state tax commission, for any county not subject to the provisions of subsection 2 of this section or subsection 2 of section 137.355, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of the previous assessed value and such increase either in person, or by mail directed to the last known address and include in such notice a statement indicating that the change in assessed value may impact the record owner's tax liability and provide all processes and deadlines for appealing determinations of the assessed value of such property. Such notice shall be provided in a font and format sufficient to alert a record owner of the potential impact upon tax liability and the appellate processes available.

4. Effective January [1, 2011,] first of the year following receipt of software necessary for the implementation of the requirements provided under this subsection and subsection 5 of this section from the state tax commission, for all counties not subject to the provisions of subsection 2 of this section or subsection 2 of section 137.355, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of such increase and, in a year of general reassessment, the county shall notify the record owner of the projected tax liability likely to result from such an increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of equalization whereat the landowner shall be entitled to be heard, and the notice to the landowner shall so state. Notice of the projected tax liability from the county shall accompany the notice of increased valuation from the assessor.

[4.] **5.** The notice of projected tax liability, required under subsections 2 and [3] 4 of this section, from the county shall include:

- (1) **The** record owner's name, address, and the parcel number of the property;
- (2) A list of all political subdivisions levying a tax upon the property of the record owner;
- (3) The projected tax rate for each political subdivision levying a tax upon the property of the record owner, and the purpose for each levy of such political subdivisions;
- (4) The previous year's tax rates for each individual tax levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (5) The tax rate ceiling for each levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (6) The contact information for each political subdivision levying a tax upon the property of the record owner;
- (7) A statement identifying any projected tax rates for political subdivisions levying a tax upon the property of the record owner, which were not calculated and provided by the political subdivision levying the tax; and
- (8) The total projected property tax liability of the taxpayer.

6. In addition to the requirements provided under subsections 1, 2, and 5 of this section, effective January 1, 2011, in any county with a charter form of government and with more than one million inhabitants, whenever any assessor shall notify a record owner of any change in assessed value, such assessor shall provide notice that information regarding the assessment method and computation of value for such property is available on the assessor's website and provide the exact website address at which such information may be accessed. Such notification shall provide the assessor's contact information to enable taxpayers without internet access to request and receive information regarding the assessment method and computation of value for such property.

137.243. PROJECTED TAX LIABILITY, ASSESSOR TO PROVIDE CLERK WITH ASSESSMENT BOOK — ABSTRACT REQUIRED — POLITICAL SUBDIVISIONS TO INFORMALLY PROJECT A NONBINDING TAX LEVY, PROCEDURE. — 1. To determine the "projected tax liability" required by subsections 2 and 3 of section 137.180, subsection 2 of section 137.355, and subsection 2 of section 137.490, the assessor, on or before March first of each **odd-numbered** tax year, shall provide the clerk with the assessment book which for this purpose shall contain the real estate values for that year, the prior year's state assessed values, and the prior year's personal property values. On or before March fifteenth, the clerk shall make out an abstract of the assessment book showing the aggregate amounts of different kinds of real, personal, and other tangible property and the valuations of each for each political subdivision in the county, or in the city for any city not within a county, entitled to levy ad valorem taxes on property except for municipalities maintaining their own tax or assessment books. The governing body of each political subdivision or a person designated by the governing body shall use such information to informally project a nonbinding tax levy for that year and return such projected tax levy to the clerk no later than April eighth. The clerk shall forward such information to the collector who shall then calculate and, no later than April thirtieth, provide to the assessor the projected tax liability for each real estate parcel for which the assessor intends to mail a notice of increase pursuant to sections 137.180, 137.355, and 137.490.

2. Political subdivisions located at least partially within two or more counties, which are subject to divergent time requirements, shall comply with all requirements applicable to each such county and may utilize the most recent available information to satisfy such requirements.

3. Failure by an assessor to timely provide the assessment book or notice of increased assessed value, as provided in this section, may result in the state tax commission withholding all or a part of the moneys provided under section 137.720 and all state per-parcel reimbursement funds which would otherwise be made available to such assessor.

4. Failure by a political subdivision to provide the clerk with a projected tax levy in the time prescribed under this section shall result in a twenty percent reduction in such political subdivision's tax rate for the tax year, unless such failure is a direct result of a delinquency in the provision of, or failure to provide, information required by this section by the assessor or the clerk. If a political subdivision fails to provide the projected tax rate as provided in this section, the clerk shall notify the state auditor who shall, within seven days of receiving such notice, estimate a nonbinding tax levy for such political subdivision and return such to the clerk. The clerk shall notify the state auditor of any applicable reduction to a political subdivision's tax rate.

5. Any taxing district wholly within a county with a township form of government may, through a request submitted by the county clerk, request that the state auditor's office estimate a nonbinding projected tax rate based on the information provided by the county clerk. The auditor's office shall return the projected tax rate to the county clerk no later than April eighth.

6. The clerk shall deliver the abstract of the assessment book to each taxing district with a notice stating that their projected tax rates be returned to the clerk by April eighth.

137.355. NOTICE OF INCREASED ASSESSMENT OF LISTED PROPERTY — NOTICE TO OWNERS, WHEN, CONTENTS. — 1. If an assessor increases the valuation of any tangible personal property as estimated in the itemized list furnished to the assessor, and if an assessor increases the valuation of any real property, he shall forthwith notify the record owner of the increase either in person or by mail directed to the last known address, and if the address of the owner is unknown notice shall be given by publication in two newspapers published in the county.

2. **For all calendar years prior to the first day of January of the year following receipt of software necessary for the implementation of the requirements provided under subsections 3 and 4 of this section from the state tax commission, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of the previous assessed value and such increase either**

in person, or by mail directed to the last known address and include on the face of such notice, in no less than twelve point font, the following statement: **NOTICE TO TAXPAYER: IF YOUR ASSESSED VALUE HAS INCREASED, IT MAY INCREASE YOUR REAL PROPERTY TAXES WHICH ARE DUE DECEMBER THIRTY-FIRST. IF YOU DO NOT AGREE THAT THE VALUE OF YOUR PROPERTY HAS INCREASED, YOU MUST CHALLENGE THE VALUE ON OR BEFORE (INSERT DATE BY WHICH APPEAL MUST BE FILED) BY CONTACTING YOUR COUNTY ASSESSOR.**

3. Effective January [1, 2011,] **first of the year following receipt of software necessary for the implementation of the requirements provided under this subsection and subsection 4 of this section from the state tax commission**, if an assessor increases the valuation of any real property, the assessor, on or before June fifteenth, shall notify the record owner of the increase and, in a year of general reassessment, the county shall notify the record owner of the projected tax liability likely to result from such an increase either in person or by mail directed to the last known address, and, if the address of the owner is unknown, notice shall be given by publication in two newspapers published in the county. Notice of the projected tax liability from the county shall accompany the notice of increased valuation from the assessor.

[3.] 4. The notice of projected tax liability, required under subsection [2] 3 of this section, from the county shall include:

- (1) Record owner's name, address, and the parcel number of the property;
- (2) A list of all political subdivisions levying a tax upon the property of the record owner;
- (3) The projected tax rate for each political subdivision levying a tax upon the property of the record owner, and the purpose for each levy of such political subdivisions;
- (4) The previous year's tax rates for each individual tax levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (5) The tax rate ceiling for each levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (6) The contact information for each political subdivision levying a tax upon the property of the record owner;
- (7) A statement identifying any projected tax rates for political subdivisions levying a tax upon the property of the record owner, which were not calculated and provided by the political subdivision levying the tax; and
- (8) The total projected property tax liability of the taxpayer.

138.431. HEARING OFFICERS OF TAX COMMISSION TO HEAR APPEALS, WHEN, PROCEDURE — APPEAL OF HEARING OFFICER'S DECISION, HOW. — 1. To hear and decide appeals pursuant to section 138.430, the commission shall appoint one or more hearing officers. The hearing officers shall be subject to supervision by the commission. No person shall participate on behalf of the commission in any case in which such person is an interested party.

2. The commission may assign such appeals as it deems fit to a hearing officer for disposition.

(1) The assignment shall be deemed made when the scheduling order is first issued by the commission and signed by the hearing officer assigned, unless another hearing officer is assigned to the case for disposition by other language in said order.

(2) A change of hearing officer, or a reservation of the appeal for disposition as described in subsection 3 of this section, shall be ordered by the commission in any appeal upon the timely filing of a written application by a party to disqualify the hearing officer assigned. The application shall be filed within thirty days from the assignment of any appeal to a hearing officer and need not allege or prove any cause for such change and need not be verified. No more than one change of hearing officer shall be allowed for each party in any appeal.

3. The commission may, in its discretion, reserve such appeals as it deems fit to be heard and decided by the full commission, a quorum thereof, or any commissioner, subject to the provisions of section 138.240, and, in such case, the decision shall be final, subject to judicial review in the manner provided in subsection 4 of section 138.470.

[3.] 4. The manner in which appeals shall be presented and the conduct of hearings shall be made in accordance with rules prescribed by the commission for determining the rights of the parties; provided that, the commission, with the consent of all the parties, may refer an appeal to mediation. The commission shall promulgate regulations for mediation pursuant to this section. No regulation or portion of a regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. There shall be no presumption that the assessor's valuation is correct. A full and complete record shall be kept of all proceedings. All testimony at any hearing shall be recorded but need not be transcribed unless the matter is further appealed.

[4.] 5. Unless an appeal is voluntarily dismissed, a hearing officer, after affording the parties reasonable opportunity for fair hearing, shall issue a decision and order affirming, modifying, or reversing the determination of the board of equalization, and correcting any assessment which is unlawful, unfair, improper, arbitrary, or capricious. The commission may, prior to the decision being rendered, transfer to another hearing officer the proceedings on an appeal determination before a hearing officer. The complainant, respondent-assessor, or other party shall be duly notified of a hearing officer's decision and order, together with findings of fact and conclusions of law. Appeals from decisions of hearing officers shall be made pursuant to section 138.432.

[5.] 6. All decisions issued pursuant to this section or section 138.432 by the commission or any of its duly assigned hearing officers shall be issued no later than sixty days after the hearing on the matter to be decided is held or the date on which the last party involved in such matter files his or her brief, whichever event later occurs.

139.031. PAYMENT OF CURRENT TAXES UNDER PROTEST — ACTION, WHEN COMMENCED, HOW TRIED — REFUNDS, HOW MADE, MAY BE USED AS CREDIT FOR NEXT YEAR'S TAXES — INTEREST, WHEN ALLOWED — COLLECTOR TO INVEST PROTESTED TAXES, DISBURSAL TO TAXING AUTHORITIES, WHEN. — 1. Any taxpayer may protest all or any part of any current taxes assessed against the taxpayer, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any current taxes under protest **or while paying taxes based upon a disputed assessment** shall, at the time of paying such taxes, **make full payment of the current tax bill before the delinquency date** and file with the collector a written statement setting forth the grounds on which the protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed. **An appeal before the state tax commission shall not be dismissed on the grounds that a taxpayer failed to file a written statement when paying taxes based upon a disputed assessment.**

2. [For all tax years beginning on or after January 1, 2009, any taxpayer desiring to protest any current taxes shall make full payment of the current tax bill and file with the collector a written statement setting forth the grounds on which the protest is based.

3.] Upon receiving payment of current taxes under protest pursuant to subsection 1 of this section or upon receiving from the state tax commission or the circuit court notice of an appeal from the state tax commission or the circuit court pursuant to section 138.430, RSMo, **along with full payment of the current tax bill before the delinquency date**, the collector shall disburse to the proper official all portions of taxes not protested or not disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are protested or in dispute. Every taxpayer protesting the payment of current taxes under subsection 1 [or 2] of this section shall, within ninety days after filing his protest, commence an action against the collector by filing a petition for the recovery of the amount protested in the circuit court of the county in which the collector maintains his office. If any taxpayer so protesting his taxes under subsection 1 [or 2] of this section shall fail to commence an action in the circuit court for the recovery of the

taxes protested within the time prescribed in this subsection, such protest shall become null and void and of no effect, and the collector shall then disburse to the proper official the taxes impounded, and any interest earned thereon, as provided above in this subsection.

[4.] 3. No action against the collector shall be commenced by any taxpayer who has, effective for the current tax year, filed with the state tax commission or the circuit court a timely and proper appeal of the assessment of the taxpayer's property. The portion of taxes in dispute from an appeal of an assessment shall be impounded in a separate fund and the commission in its decision and order issued pursuant to chapter 138, RSMo, or the circuit court in its judgment may order all or any part of such taxes refunded to the taxpayer, or may authorize the collector to release and disburse all or any part of such taxes.

[5.] 4. Trial of the action for recovery of taxes protested under subsection 1 [or 2] of this section in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and, after determination of the issues, the court shall make such orders as may be just and equitable to refund to the taxpayer all or any part of the current taxes paid under protest, together with any interest earned thereon, or to authorize the collector to release and disburse all or any part of the impounded taxes, and any interest earned thereon, to the appropriate officials of the taxing authorities. Either party to the proceedings may appeal the determination of the circuit court.

[6.] 5. All the county collectors of taxes, and the collector of taxes in any city not within a county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax liability in the following taxable year and subsequent consecutive taxable years until the taxpayer has received credit in full for any real or personal property tax mistakenly or erroneously levied against the taxpayer and collected in whole or in part by the collector. Such application shall be filed within three years after the tax is mistakenly or erroneously paid. The governing body, or other appropriate body or official of the county or city not within a county, shall make available to the collector funds necessary to make refunds under this subsection by issuing warrants upon the fund to which the mistaken or erroneous payment has been credited, or otherwise.

[7.] 6. No taxpayer shall receive any interest on any money paid in by the taxpayer erroneously.

[8.] 7. All protested taxes impounded under protest under subsection 1 [or 2] of this section and all disputed taxes impounded under notice as required by section 138.430, RSMo, shall be invested by the collector in the same manner as assets specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled to a refund of protested or disputed taxes shall also receive the interest earned on the investment thereof. If the collector is ordered to release and disburse all or part of the taxes paid under protest or dispute to the proper official, such taxes shall be disbursed along with the proportional amount of interest earned on the investment of the taxes due the particular taxing authority.

[9.] 8. **Any taxing authority may request to be notified by the county collector of current taxes paid under protest. Such request shall be in writing and submitted on or before [March] February first next following the delinquent date of current taxes paid under protest or disputed, and the county collector shall [notify any] provide such information on or before March first of the same year to the requesting** taxing authority of the taxes paid under protest and disputed taxes which would be received by such taxing authority if the funds were not the subject of a protest or dispute. Any taxing authority may apply to the circuit court of the county or city not within a county in which a collector has impounded protested or disputed taxes under this section and, upon a satisfactory showing that such taxing authority would receive such impounded tax funds if they were not the subject of a protest or dispute and that such taxing authority has the financial ability and legal capacity to repay such impounded tax funds in the event a decision ordering a refund to the taxpayer is subsequently made, the circuit court shall order, pendente lite, the disbursement of all or any part of such impounded tax funds to such taxing authority. The circuit court issuing an order under this subsection shall retain jurisdiction of such matter for further proceedings, if any, to compel restitution of such tax funds to the taxpayer. In the event that any protested or disputed tax funds refunded to a taxpayer were disbursed to a

taxing authority under this subsection instead of being held and invested by the collector under subsection 8 of this section, such taxing authority shall pay the taxpayer entitled to the refund of such protested or disputed taxes the same amount of interest, as determined by the circuit court having jurisdiction in the matter, such protested or disputed taxes would have earned if they had been held and invested by the collector.

[10.] **9.** No appeal filed from the circuit court's or state tax commission's determination pertaining to the amount of refund shall stay any order of refund, but the decision filed by any court of last review modifying that determination shall be binding on the parties, and the decision rendered shall be complied with by the party affected by any modification within ninety days of the date of such decision. No taxpayer shall receive any interest on any additional award of refund, and the collector shall not receive any interest on any ordered return of refund in whole or in part.

139.040. ACCEPTABLE MEDIUM OF EXCHANGE IN PAYMENT OF TAXES. — A county or city collector, or other collection authority charged with the duty of tax or license collection is authorized but not obligated to accept cash, personal check, business check, money order, credit card, or electronic transfers of funds for any tax or license payable to the county. The collection authority may refuse to accept any medium of exchange at the discretion of the collection authority **including any medium of exchange submitted without the statement of property taxes due and assessed as required by section 52.230.** Refusal by the collection authority to accept alternative means of payment beyond those approved by the collection authority shall not relieve an obligor of the obligor's tax or license obligation nor shall it delay the levy of interest and penalty on any overdue unpaid tax or license obligation pending submission of a form or payment approved by the collection authority.

139.140. DELIVERY OF PERSONAL DELINQUENT LIST TO SUCCESSOR. — **Except as provided in section 52.361,** the personal delinquent lists allowed to any collector shall be delivered to the collector and when [his] **the collector's** term of office expires then to [his] **the** successor, who shall be charged with the full amount thereof, and shall account therefor as for other moneys collected by [him] **the collector.** When [he] **the collector** makes [his] **the** next annual settlement [he] **the collector** shall return the lists to the clerk of the county commission, and in the city of St. Louis the lists and the uncollected tax bills to the comptroller of the city, and shall be entitled to credit for the amount [he] **the collector** has been unable to collect. The lists and bills shall be delivered to [his] **the collector's** successor, and so on until the whole are collected.

139.150. DUPLICATE RECEIPTS—EXCEPTIONS. — And in making collections on the said personal delinquent lists, the said collectors, **except collectors in counties of the first or second classifications,** shall give duplicate receipts therefor, one to be delivered to the person paying the same, and the other to be filed with the clerk of the county commission, who shall charge the collector therewith.

139.210. MONTHLY STATEMENTS AND PAYMENTS. — 1. Every county collector and [ex officio county collector] **collector-treasurer, other than the county collector of revenue of each county of the first or second classifications and,** except in the city of St. Louis, shall, on or before the fifth day of each month, file with the county clerk a detailed statement, verified by affidavit of all state, county, school, road and municipal taxes, and of all licenses by [him] **the collector** collected during the preceding month, and shall, except for tax payments made pursuant to section 139.053, on or before the fifteenth day of the month, pay the same, less [his] **the collector's** commissions, into the county treasuries and to the director of revenue.

2. **The county collector of revenue of each county of the first or second classifications shall, before the fifteenth day of each month, file with the county clerk and auditor a**

detailed statement, verified by affidavit, of all state, county, school, road, and municipal taxes and of all licenses collected by the collector during the preceding month, and shall, except for tax payments made under section 139.053, on or before the fifteenth day of the month, pay such taxes and licenses, less commissions, into the treasuries of the appropriate taxing entities and to the director of revenue.

3. It shall be the duty of the county clerk, and [he] **the clerk** is hereby required, to forward immediately a certified copy of such detailed statement to the director of revenue, who shall keep an account of the state taxes with the collector.

139.220. PAYMENT INTO COUNTY TREASURY — DUPLICATE RECEIPTS. — Every collector of the revenue having made settlement, according to law, of county revenue [by him] collected or received **by the collector**, shall pay the amount found due into the county treasury, and the treasurer shall give him duplicate receipts therefor, one of which shall be filed in the office of the clerk of the county commission, who shall grant [him] **the collector** full quietus under the seal of the commission.

140.050. CLERK TO MAKE BACK TAX BOOK — DELIVERY TO COLLECTOR, COLLECTION — CORRECTION OF OMISSIONS. — 1. **Except as provided in section 52.361**, the county clerk shall file the delinquent lists in [his] **the county clerk's** office and within ten days thereafter make, under the seal of the commission, the lists into a back tax book as provided in section 140.060.

2. **Except as provided in section 52.361**, when completed, the clerk shall deliver the book to the collector taking duplicate receipts therefor, one of which [he] **the clerk** shall file in [his] **the clerk's** office and the other [he] **the clerk** shall file with the director of revenue. The clerk shall charge the collector with the aggregate amount of taxes, interest, and clerk's fees contained in the back tax book.

3. The collector shall collect such back taxes and may levy upon, seize and distrain tangible personal property and may sell such property for taxes.

4. In the city of St. Louis, the city comptroller or other proper officer shall return the back tax book together with the uncollected tax bills within thirty days to the city collector.

5. If any county commission or clerk **in counties not having a county auditor** fails to comply with section 140.040, and this section, to the extent that the collection of taxes cannot be enforced by law, the county commission or clerk, or their successors in office, shall correct such omissions at once and return the back tax book to the collector who shall collect such taxes.

140.070. DELINQUENT REAL ESTATE TAXES EXTENDED INTO BACK TAX BOOK. — All back taxes, of whatever kind, whether state, county or school, or of any city or incorporated town, which return delinquent tax lists to the county collector to collect, appearing due upon delinquent real estates shall be extended in the back tax book made under this chapter **or chapter 52**. In case the collector of any city or town has omitted or neglected to return to the county collector a list of delinquent lands and lots, as required by section 140.670, the present authorities of the city or town may cause the delinquent list to be certified, as by that section contemplated, and the delinquent taxes shall be by the county clerk put upon the back tax book and collected by the collector under authority of this chapter.

140.080. COUNTY CLERK AND COLLECTOR, COMPARISON OF LISTS — CLERK'S CERTIFICATION. — **Except as provided in section 52.361**, the county clerk and the county collector shall compare the back tax book with the corrected delinquent land list made pursuant to sections 140.030 and 140.040 respectively, and the clerk shall certify on the delinquent land list on file in [his] **the clerk's** office that the list has been properly entered in the back tax book and shall attach a certificate at the end of the back tax book that it contains a true copy of the delinquent land list on file in [his] **the collector's** office.

140.100. PENALTY AGAINST DELINQUENT LANDS. — 1. Each tract of land in the back tax book, in addition to the amount of tax delinquent, shall be charged with a penalty of eighteen percent of each year's delinquency except that the penalty on lands redeemed prior to sale shall not exceed two percent per month or fractional part thereof. [In any city not within a county which elects to operate under the provisions of this chapter pursuant to section 141.970, RSMo, the maximum penalty on any delinquency occurring after January 1, 2000, shall not exceed the prime rate, which shall mean the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.]

2. For making and recording the delinquent land lists, the collector and the clerk shall receive ten cents per tract or lot and the clerk shall receive five cents per tract or lot for comparing and authenticating such list.

140.110. COLLECTION OF BACK TAXES, PAYMENTS APPLIED, HOW, EXCEPTIONS — REMOVAL OF LIEN. — 1. The collectors of the respective counties shall collect the taxes contained in the back tax book. Any person interested in or the owner of any tract of land or lot contained in the back tax book may redeem the tract of land or town lot, or any part thereof, from the state's lien thereon, by paying to the proper collector the amount of the original taxes, as charged against the tract of land or town lot described in the back tax book together with interest from the day upon which the tax first became delinquent at the rate specified in section 140.100.

2. Any payment for personal property taxes received by the county collector shall first be applied to **the oldest of** any back delinquent personal taxes on the back tax book before a county collector accepts any payment for all or any part of personal property taxes due and assessed on the current tax book.

3. Any payment for real property taxes received by the county collector shall first be applied to **the oldest of any** back delinquent taxes on the same individual parcel of real estate on the back tax book before a county collector accepts payment for real property taxes due and assessed on the current tax book.

4. Subsection 3 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations.

140.150. LANDS, LOTS, MINERAL RIGHTS, AND ROYALTY INTERESTS SUBJECT TO SALE, WHEN. — 1. All lands, lots, mineral rights, and royalty interests on which taxes or neighborhood improvement district special assessments are delinquent and unpaid are subject to sale to discharge the lien for the delinquent and unpaid taxes or unpaid special assessments as provided for in this chapter on the fourth Monday in August of each year.

2. No real property, lots, mineral rights, or royalty interests shall be sold for state, county or city taxes or special assessments without judicial proceedings, unless the notice of sale contains the names of all record owners thereof, or the names of all owners appearing on the land tax book and all other information required by law. Delinquent taxes or unpaid special assessments, penalty, interest and costs due thereon may be paid to the county collector at any time before the property is sold therefor. **The collector shall send notices to the publicly recorded owner of record before any delinquent and unpaid taxes or unpaid special assessments as specified in this section subject to sale are published. The first notice shall be by first class mail. A second notice shall be sent by certified mail only if the assessed valuation of the property is greater than one thousand dollars. If the assessed valuation of the property is not greater than one thousand dollars, only the first notice shall be required. If any second notice sent by certified mail under this section is returned to the collector unsigned, then notice shall be sent before the sale by first class mail to both the owner of record and the occupant of the real property. The postage for the mailing of the**

notices shall be paid out of the county treasury, and such costs shall be added to the costs of conducting the sale, and the county treasury shall be reimbursed to the extent that such postage costs are recovered at the sale. The failure of the taxpayer or the publicly recorded owner to receive the notice provided for in this section shall not relieve the taxpayer or publicly recorded owner of any tax liability imposed by law.

3. The entry in the back tax book by the county clerk of the delinquent lands, lots, mineral rights, and royalty interests constitutes a levy upon the delinquent lands, lots, mineral rights, and royalty interests for the purpose of enforcing the lien of delinquent and unpaid taxes or unpaid special assessments as provided in section 67.469, RSMo, together with penalty, interest and costs.

140.160. LIMITATION OF ACTIONS, EXCEPTIONS — COUNTY AUDITOR TO ANNUALLY AUDIT. — 1. No proceedings for the sale of land and lots for delinquent taxes pursuant to this chapter or unpaid special assessments as provided in section 67.469, RSMo, relating to the collection of delinquent and back taxes and unpaid special assessments and providing for foreclosure sale and redemption of land and lots therefor, shall be valid unless initial proceedings therefor shall be commenced within three years after delinquency of such taxes and unpaid special assessments, and any sale held pursuant to initial proceedings commenced within such period of three years shall be deemed to have been in compliance with the provisions of said law insofar as the time at which such sales are to be had is specified therein; provided further, that in suits or actions to collect delinquent drainage and/or levee assessments on real estate such suits or actions shall be commenced within three years after delinquency, otherwise no suit or action therefor shall be commenced, had or maintained, except that the three-year limitation described in this subsection shall not be applicable if any written instrument conveys any real estate having a tax-exempt status, if such instrument causes such real estate to again become taxable real property and if such instrument has not been recorded in the office of the recorder in the county in which the real estate has been situated. Such three-year limitation shall only be applicable once the recording of the title has occurred.

2. [In order to enable county and city collectors to be able to collect delinquent and back taxes and unpaid special assessments,] The county auditor in all counties having a county auditor shall annually audit [and list all delinquent and back taxes and unpaid special assessments] **collections, deposits, and supporting reports of the collector** and provide a copy of such audit [and list] to the county collector and to the governing body of the county. A copy of the audit [and list] may be provided to [city collectors] **all applicable taxing entities** within the county at the discretion of the county collector.

140.170. COUNTY COLLECTOR TO PUBLISH DELINQUENT LAND LIST — CONTENTS — SITE OF SALE — EXPENSES — PUBLISHER'S AFFIDAVIT TO BE RECORDED — EXCEPTION FOR CERTAIN PROPERTY, CONTENTS OF LIST. — 1. Except for lands described in subsection 7 of this section, the county collector shall cause a copy of the list of delinquent lands and lots to be printed in some newspaper of general circulation published in the county, for three consecutive weeks, one insertion weekly, before the sale, the last insertion to be at least fifteen days prior to the fourth Monday in August.

2. In addition to the names of all record owners or the names of all owners appearing on the land tax book it is only necessary in the printed and published list to state in the aggregate the amount of taxes, penalty, interest and cost due thereon, each year separately stated.

3. To the list shall be attached and in like manner printed and published a notice of said lands and lots stating that said land and lots will be sold at public auction to discharge the taxes, penalty, interest, and costs due thereon at the time of sale in or adjacent to the courthouse of such county, on the fourth Monday in August next thereafter, commencing at ten o'clock of said day and continuing from day to day thereafter until all are offered.

4. The county collector, on or before the day of sale, shall insert at the foot of the list on his record a copy of the notice and certify on his record immediately following the notice the name of the newspaper of the county in which the notice was printed and published and the dates of insertions thereof in the newspaper.

5. The expense of such printing shall be paid out of the county treasury and shall not exceed the rate provided for in chapter 493, RSMo, relating to legal publications, notices and advertisements, and the cost of printing at the rate paid by the county shall be taxed as part of the costs of the sale of any land or lot contained in the list.

6. The county collector shall cause the affidavit of the printer, editor or publisher of the newspaper in which the list of delinquent lands and notice of sale was published, as provided by section 493.060, RSMo, with the list and notice attached, to be recorded in the office of the recorder of deeds of the county, and the recorder shall not charge or receive any fees for recording the same.

7. The county collector may have a separate list of such lands, without legal descriptions or the names of the record owners, printed in a newspaper of general circulation published in such county for three consecutive weeks before the sale of such lands for a parcel or lot of land that:

(1) Has an assessed value of [five hundred] **one thousand** dollars or less and has been advertised previously; or

(2) Is a lot in a development of twenty or more lots and such lot has an assessed value of [five hundred] **one thousand** dollars or less. The notice shall state that legal descriptions and the names of the record owners of such lands shall be posted at any county courthouse within the county and the office of the county collector.

8. If, in the opinion of the county collector, an adequate legal description of the delinquent land and lots cannot be obtained through researching the documents available through the recorder of deeds, the collector may commission a professional land surveyor to prepare an adequate legal description of the delinquent land and lots in question. The costs of any commissioned land survey deemed necessary by the county collector shall be taxed as part of the costs of the sale of any land or lots contained in the list prepared under this section.

140.190. PERIOD OF SALE — MANNER OF BIDS — PROHIBITED SALES — SALE TO NONRESIDENTS. — 1. On the day mentioned in the notice, the county collector shall commence the sale of such lands, and shall continue the same from day to day until each parcel assessed or belonging to each person assessed shall be sold as will pay the taxes, interest and charges thereon, or chargeable to such person in said county.

2. The person offering at said sale to pay the required sum for a tract shall be considered the purchaser of such land; provided, no sale shall be made to any person **or designated agent** who is currently delinquent on any tax payments on any property, other than a delinquency on the property being offered for sale, and who does not sign an affidavit stating such at the time of sale. Failure to sign such affidavit as well as signing a false affidavit may invalidate such sale. No bid shall be received from any person not a resident of the state of Missouri [until such person] **or a foreign corporation or entity all deemed nonresidents. A nonresident** shall file with said collector an agreement in writing consenting to the jurisdiction of the circuit court of the county in which such sale shall be made, and also filing with such collector an appointment of some citizen of said county as agent of said [purchaser] **nonresident**, and consenting that service of process on such agent shall give such court jurisdiction to try and determine any suit growing out of or connected with such sale for taxes. **After the delinquent auction sale, any certificate of purchase shall be issued to the agent. After meeting the requirements of section 140.405, the property shall be conveyed to the agent on behalf of the nonresident, and the agent shall thereafter convey the property to the nonresident.**

3. All such written consents to jurisdiction and selective appointments shall be preserved by the county collector and shall be binding upon any person or corporation claiming under the person consenting to jurisdiction and making the appointment herein referred to; provided further, that in the event of the death, disability or refusal to act of the person appointed as agent of said nonresident [purchaser] the county clerk shall become the appointee as agent of said nonresident [purchaser].

140.230. FORECLOSURE SALE SURPLUS — DEPOSITED IN TREASURY — ESCHEATS, WHEN. — 1. When real estate has been sold for taxes or other debt by the sheriff or collector of any county within the state of Missouri, and the same sells for a greater amount than the debt or taxes and all costs in the case it shall be the duty of the sheriff or collector of the county, when such sale has been or may hereafter be made, to make a written statement describing each parcel or tract of land sold by him for a greater amount than the debt or taxes and all costs in the case together with the amount of surplus money in each case. The statement shall be subscribed and sworn to by the sheriff or collector making it before some officer competent to administer oaths within this state, and then presented to the county commission of the county where the sale has been or may be made; and on the approval of the statement by the commission, the sheriff or collector making the same shall pay the surplus money into the county treasury, take the receipt in duplicate of the treasurer for the [overplus] **surplus** of money and retain one of the duplicate receipts himself and file the other with the county commission, and thereupon the commission shall charge the treasurer with the amount.

2. The treasurer shall place such moneys **in the county treasury to be held for the use and benefit of the person entitled to such moneys or** to the credit of the school fund of the county, to be held in trust for the term of three years for the **publicly recorded** owner or owners **of the property sold at the delinquent land tax auction** or their legal representatives. At the end of three years, if such fund shall not be called for, then it shall become a permanent school fund of the county.

3. County commissions shall compel owners or agents to make satisfactory proof of their claims before receiving their money; provided, that no county shall pay interest to the claimant of any such fund.

140.250. THIRD OFFERING OF DELINQUENT LANDS AND LOTS, REDEMPTION — SUBSEQUENT SALE — COLLECTOR'S DEED. — 1. Whenever any lands have been or shall hereafter be offered for sale for delinquent taxes, interest, penalty and costs by the collector of the proper county for any two successive years and no person shall have bid therefor a sum equal to the delinquent taxes thereon, interest, penalty and costs provided by law, then such county collector shall at the next regular tax sale of lands for delinquent taxes sell same to the highest bidder, **except the highest bid shall not be less than the sum equal to the delinquent taxes, interest, penalties, and costs**, and there shall be a ninety-day period of redemption from such sales as specified in section 140.405.

2. [No] **A** certificate of purchase shall [issue] **be issued** as to such sales, [but] **and** the purchaser at such sales shall be entitled to the issuance and delivery of a collector's deed upon completion of title search action as specified in section 140.405.

3. If any lands or lots are not sold at such third offering, then the collector, in his discretion, need not again advertise or offer such lands or lots for sale more often than once every five years after the third offering of such lands or lots, and such offering shall toll the operation of any applicable statute of limitations.

4. A purchaser at any sale subsequent to the third offering of any land or lots, **whether by the collector or a trustee as provided in section 140.260**, shall be entitled to the immediate issuance and delivery of a collector's deed and there shall be no period of redemption from such **post-third year** sales; provided, however, before any purchaser at a sale to which this section is applicable shall be entitled to a collector's deed it shall be the duty of the collector to demand,

and the purchaser to pay, in addition to his bid, all taxes due and unpaid on such lands or lots that become due and payable on such lands or lots subsequent to the date of the taxes included in such advertisement and sale. **The collector's deed or trustee's deed shall have priority over all other liens or encumbrances on the property sold except for real property taxes.**

5. In the event the real purchaser at any sale to which this section is applicable shall be the owner of the lands or lots purchased, or shall be obligated to pay the taxes for the nonpayment of which such lands or lots were sold, then no collector's deed shall [issue] **be issued** to such purchaser, or to anyone acting for or on behalf of such purchaser, without payment to the collector of such additional amount as will discharge in full all delinquent taxes, penalty, interest and costs.

140.260. PURCHASE BY COUNTY OR CITY, WHEN — PROCEDURE. — 1. It shall be lawful for the county commission of any county, and the comptroller, mayor and president of the board of assessors of the city of St. Louis, to designate and appoint a suitable person or persons with discretionary authority to bid at all sales to which section 140.250 is applicable, and to purchase at such sales all lands or lots necessary to protect all taxes due and owing and prevent their loss to the taxing authorities involved from inadequate bids.

2. Such person or persons so designated are hereby declared as to such purchases and as titleholders pursuant to collector's deeds issued on such purchases, to be trustees for the benefit of all funds entitled to participate in the taxes against all such lands or lots so sold.

3. Such person or persons so designated shall not be required to pay the amount bid on any such purchase but the collector's deed issuing on such purchase shall recite the delinquent taxes for which said lands or lots were sold, the amount due each respective taxing authority involved, and that the grantee in such deed or deeds holds title as trustee for the use and benefit of the fund or funds entitled to the payment of the taxes for which said lands or lots were sold.

4. The costs of all collectors' deeds, the recording of same and the advertisement of such lands or lots shall be paid out of the county treasury in the respective counties and such fund as may be designated therefor by the authorities of the city of St. Louis.

5. All lands or lots so purchased shall be sold and deeds ordered executed and delivered by such trustees upon order of the county commission of the respective counties and the comptroller, mayor and president of the board of assessors of the city of St. Louis, and the proceeds of such sales shall be applied, first, to the payment of the costs incurred and advanced, and the balance shall be distributed pro rata to the funds entitled to receive the taxes on the lands or lots so disposed of, **as provided in section 140.230.**

6. Upon appointment of any such person or persons to act as trustee as herein designated a certified copy of the order making such appointment shall be delivered to the collector, and if such authority be revoked a certified copy of the revoking order shall also be delivered to the collector.

7. Compensation to trustees as herein designated shall be payable solely from proceeds derived from the sale of lands purchased by them as such trustees and shall be fixed by the authorities herein designated, but not in excess of ten percent of the price for which any such lands and lots are sold by the trustees; provided further, that if at any such sale any person bid a sufficient amount to pay in full all delinquent taxes, penalties, interest and costs, then the trustees herein designated shall be without authority to further bid on any such land or lots. **If a third party is a successful bidder and there are excess proceeds, such proceeds shall be distributed as provided in section 140.230.**

8. If the county commission of any county does not designate and appoint a suitable person or persons as trustee or trustees, so appointed, or the trustee or trustees do not accept property after the third offering where no sale occurred then it shall be at the discretion of the collector to sell such land subsequent to the third offering of such land and lots at any time and for any amount.

140.290. CERTIFICATE OF PURCHASE — CONTENTS — FEES — NONRESIDENTS. — 1.

After payment shall have been made the county collector shall give the purchaser a certificate in writing, to be designated as a certificate of purchase, which shall carry a numerical number and which shall describe the land so purchased, each tract or lot separately stated, the total amount of the tax, with penalty, interest and costs, and the year or years of delinquency for which said lands or lots were sold, separately stated, and the aggregate of all such taxes, penalty, interest and costs, and the sum bid on each tract.

2. If the purchaser bid for any tract or lot of land a sum in excess of the delinquent tax, penalty, interest and costs for which said tract or lot of land was sold, such excess sum shall also be noted in the certificate of purchase, in a separate column to be provided therefor. Such certificate of purchase shall also recite the name and address of the owner or reputed owner if known, and if unknown then the party or parties to whom each tract or lot of land was assessed, together with the address of such party, if known, and shall also have incorporated therein the name and address of the purchaser. Such certificate of purchase shall also contain the true date of the sale and the time when the purchaser will be entitled to a deed for said land, if not redeemed as in this chapter provided, and the rate of interest that such certificate of purchase shall bear, which rate of interest shall not exceed the sum of ten percent per annum. Such certificate shall be authenticated by the county collector, who shall record the same in a permanent record book in his office before delivery to the purchaser.

3. Such certificate shall be assignable, but no assignment thereof shall be valid unless endorsed on such certificate and acknowledged before some officer authorized to take acknowledgment of deeds and an entry of such assignment entered in the record of said certificate of purchase in the office of the county collector.

4. For each certificate of purchase issued, including the recording of the same, the county collector shall be entitled to receive and retain a fee of fifty cents, to be paid by the purchaser and treated as a part of the cost of the sale, and so noted on the certificate. For noting any assignment of any certificate the county collector shall be entitled to a fee of twenty-five cents, to be paid by the person requesting such recital of assignment, and which shall not be treated as a part of the cost of the sale. **For each certificate of purchase issued, as a part of the cost of the sale, the purchaser shall pay to the collector the fee necessary to record such certificate of purchase in the office of the county recorder. The collector shall record the certificate of purchase before delivering such certificate of purchase to the purchaser.**

5. No collector shall be authorized to issue a certificate of purchase to any nonresident of the state of Missouri [or to enter a recital of any assignment of such certificate upon his record to a nonresident of the state, until such purchaser or assignee of such purchaser, as the case may be, shall have complied] , **however, any nonresident as described in subsection 2 of section 140.190 may appoint an agent, and such agent shall comply** with the provisions of section 140.190 pertaining to a nonresident [purchasers].

6. This section shall not apply to any post-third year tax sale, except for nonresidents as provided in subsection 5 of this section.

140.310. POSSESSION BY PURCHASER, WHEN — RENTS — RIGHTS OF OCCUPANT AND PURCHASER. — 1.

The purchaser of any tract or lot of land at sale for delinquent taxes, homesteads excepted, shall at any time after one year from the date of sale be entitled to the immediate possession of the premises so purchased during the redemption period provided for in this law, unless sooner redeemed; provided, however, any owner or occupant of any tract or lot of land purchased may retain possession of said premises by making a written assignment of, or agreement to pay, rent certain or estimated to accrue during such redemption period or so much thereof as shall be sufficient to discharge the bid of the purchaser with interest thereon as provided in the certificate of purchase.

2. The purchaser, his heirs or assigns, may enforce his rights under said written assignment or agreement in any manner now authorized or hereafter authorized by law for the collection of

delinquent and unpaid rent; provided further, nothing herein contained shall operate to the prejudice of any owner not in default and whose interest in the tract or lot of land is not encumbered by the certificate of purchase, nor shall it prejudice the rights of any occupant of any tract or lot of land not liable to pay taxes thereon nor such occupant's interest in any planted, growing or unharvested crop thereon.

3. Any additions or improvements made to any tract or lot of land by any occupant thereof, as tenant or otherwise, and made prior to such tax sale, which such occupant would be permitted to detach and remove from the land under his contract of occupancy shall also, to the same extent, be removable against the purchaser, his heirs or assigns.

4. Any rent collected by the purchaser, his heirs or assigns, shall operate as a payment upon the amount due the holder of such certificate of purchase, and such amount or amounts, together with the date paid and by whom shall be endorsed as a credit upon said certificate, and which said sums shall be taken into consideration in the redemption of such land, as provided for in this chapter.

5. Any purchaser, heirs or assigns, in possession within the period of redemption against whom rights of redemption are exercised shall be protected in the value of any planted, growing and/or unharvested crop on the lands redeemed in the same manner as such purchaser, heirs or assigns would be protected in valuable and lasting improvements made upon said lands after the period of redemption and referred to in section 140.360.

6. The one-year redemption period shall not apply to third year tax sales, but the ninety-day redemption period as provided in section 140.405 shall apply to such sales. There shall be no redemption period for a post-third year tax sale, or any offering thereafter.

140.340. REDEMPTION, WHEN — MANNER. — 1. The owner or occupant of any land or lot sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the one year next ensuing, in the following manner: by paying to the county collector, for the use of the purchaser, his heirs or assigns, the full sum of the purchase money named in his certificate of purchase and all the cost of the sale, **including the cost to record the certificate of purchase as required in section 140.290, the fee necessary for the collector to record the release of such certificate of purchase, and the cost of the title search and mailings of notification required in sections 140.150 to 140.405,** together with interest at the rate specified in such certificate, not to exceed ten percent annually, except on a sum paid by a purchaser in excess of the delinquent taxes due plus costs of the sale, no interest shall be owing on the excess amount, with all subsequent taxes which have been paid thereon by the purchaser, his heirs or assigns, with interest at the rate of eight percent per annum on such taxes subsequently paid, and in addition thereto the person redeeming any land shall pay the costs incident to entry of recital of such redemption.

2. Upon deposit with the county collector of the amount necessary to redeem as herein provided, it shall be the duty of the county collector to mail to the purchaser, his heirs or assigns, at the last post office address if known, and if not known, then to the address of the purchaser as shown in the record of the certificate of purchase, notice of such deposit for redemption.

3. Such notice, given as herein provided, shall stop payment to the purchaser, his heirs or assigns, of any further interest or penalty.

4. In case the party purchasing said land, his heirs or assigns, fails to take a tax deed for the land so purchased within six months after the expiration of the one year next following the date of sale, no interest shall be charged or collected from the redemptioner after that time.

140.405. PURCHASER OF PROPERTY AT DELINQUENT LAND TAX AUCTION, DEED ISSUED TO, WHEN — NOTICE OF RIGHT OF REDEMPTION — REDEMPTION OF PROPERTY FIRST, WHEN — LOSS OF INTEREST, WHEN. — 1. Any person purchasing property at a delinquent land tax auction shall not acquire the deed to the real estate, as provided for in section **140.250** or

140.420, until the person meets [with the following requirement or until such person makes affidavit that a title search has revealed no publicly recorded deed of trust, mortgage, lease, lien or claim on the real estate] **the requirements of this section, except that such requirements shall not apply to post-third year sales, which shall be conducted under subsection 4 of section 140.250. The purchaser shall obtain a title search report from a licensed attorney or licensed title company detailing the ownership and encumbrances on the property. Such title search report shall be declared invalid if the effective date is more than one hundred twenty days from the date the purchaser applies for a collector's deed under section 140.250 or 140.420.**

2. At least ninety days prior to the date when a purchaser is authorized to acquire the deed, the purchaser shall notify **the owner of record and** any person who holds a publicly recorded **unreleased** deed of trust, mortgage, lease, lien, **judgment, or any other publicly recorded** claim upon that real estate of [the latter person's right to redeem such person's publicly recorded security or claim] **such person's right to redeem the property.** Notice shall be sent by **both first class mail and** certified mail **return receipt requested** to [any such person, including one who was the publicly recorded owner of the property sold at the delinquent land tax auction previous to such sale, at] such person's last known available address. [Failure of the purchaser to comply with this provision shall result in such purchaser's loss of all interest in the real estate.] **If the certified mail return receipt is returned signed, the first class mail notice is not returned, the first class mail notice is refused where noted by the United States Postal Service, or any combination thereof, notice shall be presumed received by the recipient. At the conclusion of the applicable redemption period, the purchaser shall make an affidavit in accordance with subsection 4 of this section.**

3. If the owner of record or any other publicly recorded claim on the property intends to transfer ownership or execute any additional liens or encumbrances on the property, such owner shall first redeem such property under section 140.340. The failure to comply with redeeming the property first before executing any of such actions or agreements on the property shall require the owner of record or any other publicly recorded claim on the property to reimburse the purchaser for the total bid as recorded on the certificate of purchase and all the costs of the sale required in sections 140.150 to 140.405.

4. In the case that both the certified notice return receipt card is returned unsigned and the first class mail is returned for any reason except refusal, where the notice is returned undeliverable, then the purchaser shall attempt additional notice and certify in the purchaser's affidavit to the collector that such additional notice was attempted and by what means.

5. The purchaser shall notify the county collector by affidavit of the date that every required notice was sent to the owner of record and, if applicable, any other publicly recorded claim on the property. To the affidavit, the purchaser shall attach a copy of a valid title search report as described in subsection 1 of this section as well as completed copies of the following for each recipient:

- (1) First class mail;
- (2) Certified mail notice;
- (3) Addressed envelopes as they appeared immediately before mailing;
- (4) Certified mail receipt as it appeared upon its return; and
- (5) Any returned regular mailed envelopes.

As provided in this section, at such time the purchaser notifies the collector by affidavit that all the ninety days' notice requirements of this section have been met, the purchaser is authorized to acquire the deed, provided that a collector's deed shall not be acquired before the expiration date of the redemption period as provided in section 140.340.

6. If any real estate is purchased at a third-offering tax auction and has a publicly recorded **unreleased** deed of trust, mortgage, lease, lien, **judgment, or any other publicly recorded**

claim upon the real estate **under this section**, the purchaser of said property [at a third-offering tax auction shall notify anyone with a publicly recorded deed of trust, mortgage, lease, lien or claim upon the real estate pursuant to this section] **shall within forty-five days after the purchase at the sale notify such person of the person's right to redeem the property within ninety days from the postmark date on the notice. Notice shall be sent by both first class mail and certified mail return receipt requested to such person's last known available address.** [Once] The purchaser [has notified] **shall notify** the county collector by affidavit [that proper notice has been given, anyone with a publicly recorded deed of trust, mortgage, lease, lien or claim upon the property] **of the date the required notice was sent to the owner of record and, if applicable, any other publicly recorded claim on the property, that such person shall have ninety days to redeem said property or be forever barred from redeeming said property.**

7. If the county collector chooses to have the title search done then the county collector [must comply with all provisions of this section, and] may charge the purchaser the cost of the title search before giving the purchaser a deed pursuant to section 140.420.

8. **If the property is redeemed, the person redeeming the property shall pay the costs incurred by the purchaser in providing notice under this section. Recoverable costs on any property sold at a tax sale shall include the title search, postage, and costs for the recording of any certificate of purchase issued and for recording the release of such certificate of purchase and all the costs of the sale required in sections 140.150 to 140.405.**

9. **Failure of the purchaser to comply with this section shall result in such purchaser's loss of all interest in the real estate.**

140.420. DEED TO PURCHASER IF UNREDEEMED. — If no person shall redeem the lands sold for taxes within **the applicable redemption period of one year from the date of the sale or within the ninety-day notice as specified in section 140.405 for a third-year tax sale**, at the expiration thereof, and on production of **the** certificate of purchase, the collector of the county in which the sale of such lands took place shall execute to the purchaser, his heirs or assigns, in the name of the state, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all claims thereon for unpaid taxes except such unpaid taxes existing at time of the purchase of said lands and the lien for which taxes was inferior to the lien for taxes for which said tract or lot of land was sold.

141.535. SALE OF PARCEL UNDER TAX FORECLOSURE JUDGMENT STAYED, WHEN (JACKSON COUNTY). — 1. In any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, the court shall stay the sale of any tax parcel to be sold under execution of a tax foreclosure judgment obtained under this chapter, which is the subject of an action filed under sections 447.620 to 447.640, provided that the party which has brought such an action has paid into the circuit court the principal amount of all land taxes then due and owing under the tax foreclosure judgment, exclusive of penalties, interest, attorney fees, and court costs, prior to the date of any proposed sale under execution. The party bringing such action shall provide written notice of the filing of the action to the court administrator and file with the circuit court in which the action is pending a certificate that such notice has been provided to the court administrator.

2. Upon the granting by the court of temporary possession of any property under section 447.632 and again upon the approval by the court of a sheriff's deed under section 447.625, the circuit court shall direct payment to the county collector of all principal land taxes theretofore paid into the circuit court. In addition, in any order granting a sheriff's deed under section 447.625, the court shall also order the permanent extinguishment of liability against the grantee of the sheriff's deed, and all successors in interest; excepting however, any defendant in such action, for penalties, interest, attorney fees, and court costs

arising from actions to collect delinquent land taxes due on the subject property. The funds paid into the court for land taxes shall then be paid to the county collector. If an owner of such a property moves the court for restoration of the subject property under section 447.638, the owner shall pay into the circuit court all land tax amounts currently due and owing on the property, including all statutory penalties, interest, attorney fees, and court costs retroactive to the date of accrual.

3. If the party which brought the action under sections 447.620 to 447.640 dismisses its action prior to gaining temporary possession of the property, it shall recover any amounts paid into the circuit court prior to that date for principal land taxes.

4. In the event that an owner of the tax parcel regains possession under section 447.638, the party which brought the action under sections 447.620 to 447.640 shall recover from that owner an amount equal to that paid into the court by said party and paid to the county collector under this section, and shall be granted judgment thereon.

141.830. COLLECTION OF BACK TAXES — REDEMPTION, INTEREST AND COSTS (ST. LOUIS). — 1. The collectors of such cities not within a county shall proceed to collect the taxes contained in the back tax book or recorded list of the delinquent land and lots in the collector's office as herein required.

2. Any person interested in or the owner of any tract of land or lot contained in the back tax book or in the recorded list of delinquent lands and lots in the collector's office may redeem such tract of land or town lot, or any part thereof, from the state's or such city's lien thereon, by paying to the proper collector the amount of the original taxes, together with interest from the date of delinquency at the rate of ten percent per annum and the costs until January 1, 1983, and beginning on January 1, 1983, at the rate of **two percent per month, not to exceed** eighteen percent per annum and the costs. [For any delinquency occurring after January 1, 2000, the rate shall not exceed the prime rate, which shall mean the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.]

3. If suit shall have been commenced against any person owing taxes on any tract of land or town lot for the collection of taxes, the person desiring to redeem any such land before judgment, in addition to the original tax, interest and costs including attorney's fee accruing under this law, shall pay to the city collector all necessary costs incurred in the court where the suit is pending, and the city collector shall account to the clerk of the court in which such suit is filed for the court costs so collected.

165.071. COUNTY COLLECTOR-TREASURER TO PAY OVER SCHOOL DISTRICT MONEYS MONTHLY (SEVEN-DIRECTOR DISTRICTS). — 1. At least once in every month the county collector in all counties of the first and second classifications and the collector-treasurer in counties having township organization shall pay over to the treasurer of the school board of all seven-director districts all moneys received and collected by the **county collector and the collector-treasurer** to which the board is entitled and take duplicate receipts from the treasurer, one of which the **county collector and the collector-treasurer** shall file with the secretary of the school board and the other the collector-treasurer shall file in his or her settlement with the county commission.

2. The county collector in counties of the third and fourth classification, except in counties under township organization, shall pay over to the county treasurer at least once in every month all moneys received and collected by the county collector which are due each school district and shall take duplicate receipts therefor, one of which the county collector shall file in his or her settlement with the county commission. The county treasurer in such counties shall pay over to the treasurer of the school board of seven-director districts, at least once in every month, all moneys so received by the county treasurer to which the board is entitled. Upon payment the county treasurer shall take duplicate receipts from the treasurer of the school board, one of which

the county treasurer shall file with the secretary of the school board, and the other [he] the county treasurer shall file in his or her settlement with the county commission.

184.500. DEFINITIONS — As used in sections 184.500 to 184.512, unless the context clearly requires otherwise, the following terms mean:

- (1) "Commission", the governing body of the Kansas City Zoological District;
- (2) "Eligible charter county", any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;
- (3) "Eligible county or eligible counties", any eligible charter county or eligible noncharter county;
- (4) "Eligible noncharter county", any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants, and any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants;
- (5) "District", a political subdivision of this state, to be known as "The Kansas City Zoological District", which shall be created under the provisions of sections 184.500 to 184.512 and composed of eligible counties which act to create, or to become a part of, the district in accordance with the provisions of section 184.503;
- (6) "Organizations", nonprofit and tax exempt social, civic, or community organizations and associations that are dedicated to the development, provision, operation, supervision, promotion, or support of zoological activities;
- (7) "Zoological activities", the establishment and maintenance of zoological facilities and related buildings; acquisition and care of species for display and study in a zoological facility; educational and cultural programs relating to zoological matters; artistic, historical, intellectual, or social programs that relate to zoological matters; and such other collateral activities as may be necessary to maintain and carry out other activities provided under sections 184.500 to 184.512;
- (8) "Zoological facilities", facilities operated or used for participation or engagement in zoological activities.

184.503. CREATION OF DISTRICT AND SALES TAX AUTHORIZED —BALLOT LANGUAGE — SALES TAX REVENUE, USE OF — WITHDRAWAL FROM DISTRICT, PROCEDURE. — 1. The governing body of any eligible county may, by resolution, authorize the creation of or participation in a district, and may impose a sales tax on all retail sales made within the eligible county which are subject to sales tax under chapter 144. The tax authorized in this section shall not exceed one-fourth of one percent, and shall be imposed solely for the purpose of funding the support of zoological activities within the district. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. Such creation of or participation in such district and the levy of the sales tax may be accomplished individually or on a cooperative basis with another eligible county or other eligible counties for financial support of the district. A petition requesting such creation of or participation in such district and the levy of the sales tax for the purpose of funding the support of zoological activities within the district may also be filed with the governing body, and shall be signed by not less than the number of qualified electors of an eligible county equal to five percent of the number of ballots cast and counted at the last preceding gubernatorial election held in such county. No such resolution adopted or petition presented under this section shall become effective unless the governing body of the eligible county submits to the voters residing within the eligible county at a state general, primary, or special election

a proposal to authorize the governing body of the eligible county to create or participate in a district and to impose a tax under this section. The county election official shall give legal notice at least sixty days prior to such general or primary election or special election in at least two newspapers that such proposition or propositions shall be submitted at the next general or primary election or special election held for submission of this proposition. The resolution or proposition shall be printed on the ballot and in the notice of election.

2. The ballot for the proposition in any county shall be in substantially the following form:

"Shall a retail sales tax of (insert amount, not to exceed one-quarter of one percent) be levied and collected for the benefit of the Kansas City Zoological District, which shall be created and consist of the county(s) of (insert name of counties), for the support of zoological activities with the district?

☐ YES ☐ NO"

The governing body of the county may place additional language on the ballot to describe the use or allocation of the funds.

3. In the event that a majority of the voters voting on such proposition in such county at said election cast votes for the proposition, then the district shall be deemed established and the tax rate for such subdistrict shall be deemed in full force and effect as of the first day of the year following the year of said election and the governing body of such county may proceed with the performance of all things necessary and incidental to participation in the district. The results of the aforesaid election shall be certified by the election officials of such county to the governing body of such county not less than thirty days after the day of election. In the event the proposition shall fail to receive a majority of the votes "FOR", then such proposition shall not be resubmitted at any election held within one year of the date of the election the proposition was rejected. Any such resubmissions of such proposition shall substantially comply with the provisions of sections 184.500 to 184.515.

4. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed under this section.

5. All sales taxes collected by the director of revenue from the tax authorized by this section on behalf of the district, less one percent for cost of collection, which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds, as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "Kansas City Zoological District Sales Tax Trust Fund". The moneys in the Kansas City Zoological District Sales Tax Trust Fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money collected and deposited in the trust fund and the records shall be open to the inspection of officers of the district, the counties composing the district, and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the Kansas City Zoological District Sales Tax Trust Fund during the preceding month to the district.

6. The director of revenue may make refunds from the amounts in the Kansas City Zoological District Sales Tax Trust Fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of the district. If the district abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the Kansas City Zoological District Sales Tax Trust Fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such account. After one year has elapsed after the effective date of abolition of the tax in the district, the director of revenue shall remit the balance in the account to the district and

close the account of the district. The director of revenue shall notify the district of each instance of any amount refunded or any check redeemed from receipts due the district.

7. Any of the eligible counties composing the Kansas City Zoological District may withdraw from the district by adoption of a resolution and approval of the resolution by a majority of the qualified electors of the county, in the same manner provided in this section for creating or becoming a part of the district. The governing body of a withdrawing county shall provide for the sending of formal written notice of withdrawal from the district to the governing body of the other county or each of the other counties comprising the district. Actual withdrawal shall not take effect until ninety days after notice has been sent. A withdrawing county shall not be relieved from any obligation that such county may have assumed or incurred by reason of being a part of the district, including, but not limited to, the retirement of any outstanding bonded indebtedness of the district.

184.506. COMMISSION TO GOVERN, MEMBERS, TERMS, MEETINGS, QUORUM —IMMUNITY FOR MEMBERS. — 1. The district shall be governed by the commission, which shall be a body corporate and politic and subdivision of the state and shall be composed of resident electors, as follows:

(1) One member of the governing body of each eligible county that is a part of the district, who shall be appointed by a majority vote of such county's governing body;

(2) One member of the Kansas City, Missouri Board of Parks and Recreation, who shall be appointed by a majority vote of such board;

(3) One member shall be the executive director of the Kansas City Zoo;

(4) One member shall be appointed by the governing body of each eligible county which establishes the district under section 184.503 in the following manner:

(a) The Friends of the Zoo Inc shall provide the names of three individuals to the governing body of each eligible county. Each individual named shall be at least twenty-one years of age, a resident of such eligible county, and a registered voter of such eligible county;

(b) Within sixty days of receiving the three names provided under paragraph (a) of this subdivision, the governing body of each eligible charter county shall select by a majority vote one individual from the three names provided under paragraph (a) of this subdivision who shall then serve as a member of the district's commission for a term described under subsection 2 of this section. Within sixty days of receiving the three names provided under paragraph (a) of this subdivision, the governing body of each eligible noncharter county shall select by unanimous vote one individual from the three names provided under paragraph (a) of this subdivision who shall then serve as a member of the district's commission for a term described under subsection 2 of this section.

2. The term of each commissioner, initially appointed by a county governing body, shall expire concurrently with such commissioner's tenure as a county officer or three years after the date of appointment as a commissioner, whichever occurs first. The term of each succeeding commissioner shall expire concurrently with such successor commissioner's tenure as a county officer or four years after the date of appointment as a commissioner, whichever occurs first. The term of the commissioner initially appointed by the Kansas City, Missouri Board of Parks and Recreation shall expire concurrently with such commissioner's tenure as a member of the Kansas City, Missouri Board of Parks and Recreation, or one year after the date of appointment as a commissioner, whichever occurs first. The term of each commissioner succeeding a commissioner appointed by the Kansas City, Missouri Board of Parks and Recreation shall expire concurrently with such successor commissioner's tenure as a member of the Kansas City, Missouri Board of Parks and Recreation or four years after the date of appointment as

a commissioner, whichever occurs first. The term of each commissioner initially appointed by the governing body of an eligible county shall expire four years after the date of appointment as a commissioner. The term of each commissioner succeeding a commissioner appointed by the governing body of an eligible county shall expire four years after the date of appointment as commissioner. If an eligible county withdraws under subsection 7 of section 184.503, then the position of commissioner appointed by such eligible county ends on the date on which the withdrawal becomes effective. The term of the executive director of the Kansas City Zoo shall not expire but shall transfer automatically to the current executive director of the Kansas City Zoo or any interim director. Any vacancy occurring in a commissioner position for reasons other than expiration of terms of office shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Any commissioner may be removed for cause by the appointing authority of the commissioner.

3. The commission shall select annually, from its membership, a chairperson, a vice chairperson, and a treasurer. The treasurer shall be bonded in such amounts as the commission may require.

4. The commission may appoint such officers, agents, and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents, and employees.

5. The commission shall fix the time and place at which its meetings shall be held. Meetings shall be held within the district and shall be open to the public. Public notice shall be given of all meetings.

6. A majority of the commissioners shall constitute, in the aggregate, a quorum for the transaction of business. No action of the commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the commissioners present at such meeting, shall vote in favor thereof. In the event a quorum is present and there is a tie vote on a pending motion, the executive director of the Kansas City Zoo shall have the power to break the tie by exercising an additional vote. No action of the commission taken at a meeting thereof shall be binding unless the subject of such action is included in a written agenda for such meeting, the agenda and notice of meeting having been mailed to each commissioner by postage-paid first class mail at least fourteen calendar days prior to the meeting.

7. The commissioners shall be subject to the provisions of the laws of this state, which relate to conflicts of interest, in any zoological activity supported by the district or commission or in any other business transaction of the district or commission. A commissioner shall disclose any conflict of interest in writing to the other commissioners and shall abstain from voting on any matter relating to such facility, organization, or activity or such business transaction, except that the executive director of Kansas City Zoo shall not be required to abstain from voting on matters relating to the Kansas City Zoo.

8. Commissioners shall enjoy official immunity under the common law for any action at law or equity, or other legal proceeding against any commissioner relating to any act or omission of the commissioner arising out of his or her performance of duties as a commissioner. If any action at law or equity, or other legal proceeding, shall be brought against any commissioner for any act or omission arising out of the performance of duties as a commissioner, the commissioner shall be indemnified in whole and held harmless by the commission for any judgment or decree entered against the commissioner and, further, shall be defended at the cost of expense of the commission in any such proceeding.

184.509. SEAL AND BYLAWS — POWER TO CONTRACT — BORROWING OF MONEYS, WHEN — SUPPORT FOR ACTIVITIES, CONSIDERATIONS — ANNUAL REPORT. — 1. The commission shall adopt a seal and suitable bylaws governing its management and

procedure. The commission shall have the power to contract and to be contracted with, and to sue and to be sued. The commission may own and acquire, by gift, purchase, lease, or devise, zoological facilities within the territory of the district. The commission may plan, construct, operate, and maintain and contract for the operation and maintenance of zoological facilities within the territory of the district. The commission may sell, lease, donate, transfer, or otherwise dispose of zoological facilities within the territory of the district. The commission may receive for any of its purposes and functions any contributions or moneys appropriated by counties or cities and may solicit and receive any and all donations, and grants of money, equipment, supplies, materials, and services from any state or the United States or any agency thereof, or from any institution, foundation, organization, person, firm, or corporation, and may utilize and dispose of the same.

2. At any time following five years from the date of creation of the Kansas City Zoological District, the commission may borrow moneys for the planning, construction, equipping, operation, maintenance, repair, extension, expansion, or improvement of any zoological facility by:

(1) Issuing notes, bonds or other instruments in writing of the commission in evidence of the sum or sums to be borrowed. No notes, bonds or other instruments in writing shall be issued pursuant to this subsection until the issuance of such notes, bonds or instruments has been submitted to and approved by a majority of the qualified electors of the district voting at an election called and held thereon. Such election shall be called and held in the manner provided by law;

(2) Issuing refunding notes, bonds or other instruments in writing for the purpose of refunding, extending or unifying the whole or any part of its outstanding indebtedness from time to time, whether evidenced by notes, bonds or other instruments in writing. Such refunding notes, bonds or other instruments in writing shall not exceed in amount the principal of the outstanding indebtedness to be refunded and the accrued interest thereon to the date of such refunding;

(3) Providing that all notes, bonds and other instruments in writing issued hereunder shall or may be payable, both as to principal and interest, from sales tax revenues authorized under this compact and disbursed to the district by counties comprising the district, admissions and other revenues collected from the use of any zoological facility or facilities constructed hereunder, or from any other resources of the commission, and further may be secured by a mortgage or deed of trust upon any property interest of the commission; and

(4) Prescribing the details of all notes, bonds or other instruments in writing, and of the issuance and sale thereof. The commission shall have the power to enter into covenants with the holders of such notes, bonds or other instruments in writing, not inconsistent with the powers granted herein, without further legislative authority.

3. The commission may provide donations, contributions, and grants or other support, financial or otherwise for, or in aid of, zoological activities in counties that are part of the district. In determining whether to provide any such support the commission shall consider the following factors:

(1) The commission's primary purpose is to support the maintenance and operation of the Kansas City Zoo through donations, contributions, grants, and other financial support;

(2) The economic impact upon the district;

(3) The benefit to citizens of the district and to the general public;

(4) The contribution to the quality of life and popular image of the district;

(5) The breadth of popular appeal within and outside the district; and

(6) Any other factor deemed appropriate by the commission.

4. The commission may provide for actual and necessary expenses of commissioners incurred in the performance of their official duties.

5. The commission shall cause to be prepared annually a report on the operations and transactions conducted by the commission during the preceding year. The report shall be submitted to the governing bodies of the counties comprising the district, to the governing body of each county that appoints a commissioner, to the Kansas City, Missouri Board of Parks and Recreation, and to the executive board of Friends of the Zoo, Inc. The commission shall publish the annual report in the official county newspaper of each of the counties comprising the district.

6. The commission has the power to perform all other necessary and incidental functions and duties and to exercise all other necessary and appropriate powers not inconsistent with the constitution or laws of this state to effectuate the same.

7. Nothing in this section shall be construed as granting the commission authority or power to manage the Kansas City Zoo or to retain title to, or control over, the lands occupied by the Kansas City Zoo.

184.512. ADMINISTRATION, FUNDING OF — RECORD-KEEPING REQUIREMENTS. — 1. The moneys necessary to finance administrative operations of the Kansas City zoological district for the first six months after its creation shall be appropriated to the commission by the counties comprising the district. Thereafter, the moneys necessary to finance the operation of the Kansas City zoological district shall be taken from the Kansas City zoological district sales tax fund, established under the provisions of section 184.503.

2. The commission shall not incur any indebtedness or obligation of any kind, nor shall the commission pledge the credit of either or any of the counties comprising the district, except as authorized in section 184.509. The budget of the district shall be prepared, adopted, and published as provided by law for other political subdivisions of this state.

3. This commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the commission.

4. The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the counties comprising the district, the cities that appoint a commissioner, the executive committee of Friends of the Zoo, Inc., and other persons authorized by the commission.

246.310. INAPPLICABILITY OF CERTAIN LAW REGARDING ABEYANCE OF WATER AND SEWER ASSESSMENTS. — The provisions of section 262.802 shall not apply to any drainage district or levee district formed pursuant to the laws of this state.

Approved July 8, 2010

HB 1340 [HB 1340]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Repeals the authorization for the governing body of any fire protection district in Douglas County to impose a sales tax for its operational costs under certain conditions

AN ACT to repeal section 321.247, RSMo, relating to sales taxes for fire protection districts.

SECTION

A. Enacting clause.

321.247. Sales tax for fire protection district — ballot language — fund created, use of moneys (Douglas County).

*Be it enacted by the General Assembly of the state of Missouri, as follows:***SECTION A. ENACTING CLAUSE.** — Section 321.247, RSMo, is repealed.

[321.247. SALES TAX FOR FIRE PROTECTION DISTRICT — BALLOT LANGUAGE — FUND CREATED, USE OF MONEYS (DOUGLAS COUNTY). — 1. In any county of the third classification without a township form of government and with more than thirteen thousand seventy-five but fewer than thirteen thousand one hundred seventy-five inhabitants, the governing body of any fire protection district may impose a sales tax in an amount up to one percent on all retail sales made in such fire protection district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, provided that such sales tax shall be accompanied by a reduction in the district's tax rate as defined in section 137.073, RSMo. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax imposed pursuant to the provisions of this section shall be effective unless the governing body of the fire protection district submits to the voters of such fire protection district, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the fire protection district to impose a tax pursuant to this section.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall (insert name of fire protection district) impose a sales tax of (insert amount up to one) percent for the purpose of providing revenues for the operation of the (insert name of fire protection district) and the total property tax levy on properties in the (insert name of the fire protection district) shall be reduced annually by an amount which reduces property tax revenues by an amount equal to fifty percent of the previous year's revenue collected from this sales tax?

☐ YES☐ NO

If you are favor of the question, plan an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

3. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax authorized in this section shall be in effect and the governing body of the fire protection district shall lower the level of its tax rate by an amount which reduces property tax revenues by an amount equal to fifty percent of the amount of sales tax collected in the preceding year. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the fire protection district shall not impose the sales tax authorized in this section unless and until the governing body of such fire protection district resubmits a proposal to authorize the governing body of the fire protection district to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon.

4. All revenue received by a district from the tax authorized pursuant to this section shall be deposited in two special trust funds, and be used solely for the purposes specified in the proposal submitted pursuant to this section for so long as the tax shall remain in effect.

5. Ninety-five percent of the sales taxes collected by the director of revenue pursuant to this section, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited into the "Ambulance or Fire Protection District Sales Tax Trust Fund" pursuant to section 321.552. The remaining five percent of the sales taxes collected by the director of revenue pursuant to this section shall be deposited in a special trust fund, which is hereby created, to be known as the "Distressed Fire Protection District Fund". The moneys in

the distressed fire protection district fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and the amount collected in each district imposing a sales tax pursuant to this section, and the records shall be open to inspection by officers of the county and to the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month in equal parts to the governing body of any fire protection district located within any county with a charter form of government and with more than one million inhabitants, with a median household income of seventy percent or less of the median household income for the county in which such fire protection is located; such funds shall be deposited with the board treasurer of each such district.

6. The director of revenue may make refunds from the amounts in the trust fund and credit any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. If any district abolishes the tax, the district shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.]

Approved June 23, 2010

HB 1375 [SCS HCS HB 1375]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the development of a brochure regarding human papillomavirus and allows a physician to use expedited partner therapy by dispensing medications to certain persons who are not patients

AN ACT to amend chapters 167 and 191, RSMo, by adding thereto two new sections relating to treatment of certain sexually transmitted diseases.

SECTION

- A. Enacting clause.
- 167.182. HPV informational brochure, contents.
- 191.648. Expedited partner therapy permitted, requirements for physicians utilizing — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 167 and 191, RSMo, are amended by adding thereto two new sections, to be known as sections 167.182 and 191.648, to read as follows:

167.182. HPV INFORMATIONAL BROCHURE, CONTENTS. — 1. The department of health and senior services shall develop an informational brochure relating to the connection between human papillomavirus and cervical cancer, and that an immunization against the human papillomavirus infection is available. The department shall make the

brochure available on its website and shall notify each public school district in this state of the availability of the brochure to be printed and included or referred to in any other printed material to be provided directly to parents as the school district deems appropriate. However, materials made available pursuant to this section may only be distributed to parents directly and not distributed to students as material to be given to parents. Such information in the brochure shall include:

- (1) The risk factors for developing cervical cancer, the symptoms of the disease, how it may be diagnosed, and its possible consequences if untreated;
- (2) The connection between human papillomavirus and cervical cancer, how human papillomavirus is transmitted, how transmission may be prevented, including abstinence as the best way to prevent sexually transmitted diseases, and the relative risk of contracting human papillomavirus for primary and secondary school students;
- (3) The latest scientific information on the immunization against human papillomavirus infection and the immunization's effectiveness against causes of cervical cancer;
- (4) That a pap smear is still critical for the detection of precancerous changes in the cervix to allow for treatment before cervical cancer develops; and
- (5) A statement that any questions or concerns regarding immunizing the child against human papillomavirus could be answered by contacting the family's health care provider.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

191.648. EXPEDITED PARTNER THERAPY PERMITTED, REQUIREMENTS FOR PHYSICIANS UTILIZING — RULEMAKING AUTHORITY. — 1. As used in this section, "expedited partner therapy" means the practice of treating the sex partners of persons with chlamydia or gonorrhea without an intervening medical evaluation or professional prevention counseling.

2. Any licensed physician may, but shall not be required to, utilize expedited partner therapy for the management of the partners of persons with chlamydia or gonorrhea. Notwithstanding the requirements of 20 CSR 2150-5.020(5) or any other law to the contrary, a licensed physician utilizing expedited partner therapy may prescribe and dispense medications for the treatment of chlamydia or gonorrhea for an individual who is the partner of a person with chlamydia or gonorrhea and who does not have an established physician/patient relationship with such physician. Any antibiotic medications prescribed and dispensed for the treatment of chlamydia or gonorrhea under this section shall be in pill form.

3. Any licensed physician utilizing expedited partner therapy for the management of the partners with chlamydia or gonorrhea shall provide explanation and guidance to a patient diagnosed with chlamydia or gonorrhea of the preventative measures that can be taken by the patient to stop the spread of such diagnosis.

4. Any licensed physician utilizing expedited partner therapy for the management of partners of persons with chlamydia or gonorrhea under this section shall have immunity from any civil liability that may otherwise result by reason of such actions, unless such physician acts negligently, recklessly, in bad faith, or with malicious purpose.

5. The department of health and senior services and the division of professional registration within the department of insurance, financial institutions and professional registration shall by rule develop guidelines for the implementation of subsection 2 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

Approved July 13, 2010

HB 1392 [SCS HB 1392]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding property tax rates

AN ACT to repeal sections 67.110, 138.431, and 321.250, RSMo, and to enact in lieu thereof three new sections relating to property taxes.

SECTION

- A. Enacting clause.
- 67.110. Fixing ad valorem property tax rates, procedure — failure to establish, effect — new or increased taxes approved after September 1 not to be included in that year's tax levy, exception.
- 138.431. Hearing officers of tax commission to hear appeals, when, procedure — appeal of hearing officer's decision, how.
- 321.250. Board to certify rate of levy to county commission.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.110, 138.431, and 321.250, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 67.110, 138.431, and 321.250, to read as follows:

67.110. FIXING AD VALOREM PROPERTY TAX RATES, PROCEDURE — FAILURE TO ESTABLISH, EFFECT — NEW OR INCREASED TAXES APPROVED AFTER SEPTEMBER 1 NOT TO BE INCLUDED IN THAT YEAR'S TAX LEVY, EXCEPTION. — 1. Each political subdivision in the state, except counties and any political subdivision located at least partially within any county with a charter form of government or any political subdivision located at least partially within any city not within a county, shall fix its ad valorem property tax rates as provided in this section not later than September first for entry in the tax books. Each political subdivision located, at least partially, within a county with a charter form of government or within a city not within a county shall fix its ad valorem property tax rates as provided in this section not later than October first for entry in the tax books for each calendar year after December 31, 2008. Before the governing body of each political subdivision of the state, except counties, as defined in section 70.120, RSMo, fixes its rate of taxation, its budget officer shall present to its governing body the following information for each tax rate to be levied: the assessed valuation by category of real, personal and other tangible property in the political subdivision as entered in the tax book for the fiscal year for which the tax is to be levied, as provided by subsection 3 of section 137.245,

RSMo, the assessed valuation by category of real, personal and other tangible property in the political subdivisions for the preceding taxable year, the amount of revenue required to be provided from the property tax as set forth in the annual budget adopted as provided by this chapter, and the tax rate proposed to be set. Should any political subdivision whose taxes are collected by the county collector of revenue fail to fix its ad valorem property tax rate by [September first] **the date provided under this section for such political subdivision**, then no tax rate other than the rate, if any, necessary to pay the interest and principal on any outstanding bonds shall be certified for that year.

2. The governing body shall hold at least one public hearing on the proposed rates of taxes at which citizens shall be heard prior to their approval. The governing body shall determine the time and place for such hearing. A notice stating the hour, date and place of the hearing shall be published in at least one newspaper qualified under the laws of the state of Missouri of general circulation in the county within which all or the largest portion of the political subdivision is situated, or such notice shall be posted in at least three public places within the political subdivision; except that, in any county of the first class having a charter form of government, such notice may be published in a newspaper of general circulation within the political subdivision even though such newspaper is not qualified under the laws of Missouri for other legal notices. Such notice shall be published or posted at least seven days prior to the date of the hearing. The notice shall include the assessed valuation by category of real, personal and other tangible property in the political subdivision for the fiscal year for which the tax is to be levied as provided by subsection 3 of section 137.245, RSMo, the assessed valuation by category of real, personal and other tangible property in the political subdivision for the preceding taxable year, for each rate to be levied the amount of revenue required to be provided from the property tax as set forth in the annual budget adopted as provided by this chapter, and the tax rates proposed to be set for the various purposes of taxation. The tax rates shall be calculated to produce substantially the same revenues as required in the annual budget adopted as provided in this chapter. Following the hearing the governing body of each political subdivision shall fix the rates of taxes, the same to be entered in the tax book. Failure of any taxpayer to appear at such hearing shall not prevent the taxpayer from pursuit of any other legal remedy otherwise available to the taxpayer. Nothing in this section absolves political subdivisions of responsibilities under section 137.073, RSMo, nor to adjust tax rates in event changes in assessed valuation occur that would alter the tax rate calculations.

3. Each political subdivision of the state shall fix its property tax rates in the manner provided in this section for each fiscal year which begins after December 31, 1976. New or increased tax rates for political subdivisions whose taxes are collected by the county collector approved by voters after September first of any year shall not be included in that year's tax levy except for any new tax rate ceiling approved pursuant to section 71.800, RSMo.

4. In addition to the information required under subsections 1 and 2 of this section, each political subdivision shall also include the increase in tax revenue due to an increase in assessed value as a result of new construction and improvement and the increase, both in dollar value and percentage, in tax revenue as a result of reassessment if the proposed tax rate is adopted.

138.431. HEARING OFFICERS OF TAX COMMISSION TO HEAR APPEALS, WHEN, PROCEDURE — APPEAL OF HEARING OFFICER'S DECISION, HOW. — 1. To hear and decide appeals pursuant to section 138.430, the commission shall appoint one or more hearing officers. The hearing officers shall be subject to supervision by the commission. No person shall participate on behalf of the commission in any case in which such person is an interested party.

2. The commission may assign such appeals as it deems fit to a hearing officer for disposition.

(1) The assignment shall be deemed made when the scheduling order is first issued by the commission and signed by the hearing officer assigned, unless another hearing officer is assigned to the case for disposition by other language in said order.

(2) A change of hearing officer, or a reservation of the appeal for disposition as described in subsection 3 of this section, shall be ordered by the commission in any appeal upon the timely filing of a written application by a party to disqualify the hearing officer assigned. The application shall be filed within thirty days from the assignment of any appeal to a hearing officer and need not allege or prove any cause for such change and need not be verified. No more than one change of hearing officer shall be allowed for each party in any appeal.

3. The commission may, in its discretion, reserve such appeals as it deems fit to be heard and decided by the full commission, a quorum thereof, or any commissioner, subject to the provisions of section 138.240, and, in such case, the decision shall be final, subject to judicial review in the manner provided in subsection 4 of section 138.470.

[3.] 4. The manner in which appeals shall be presented and the conduct of hearings shall be made in accordance with rules prescribed by the commission for determining the rights of the parties; provided that, the commission, with the consent of all the parties, may refer an appeal to mediation. The commission shall promulgate regulations for mediation pursuant to this section. No regulation or portion of a regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. There shall be no presumption that the assessor's valuation is correct. A full and complete record shall be kept of all proceedings. All testimony at any hearing shall be recorded but need not be transcribed unless the matter is further appealed.

[4.] 5. Unless an appeal is voluntarily dismissed, a hearing officer, after affording the parties reasonable opportunity for fair hearing, shall issue a decision and order affirming, modifying, or reversing the determination of the board of equalization, and correcting any assessment which is unlawful, unfair, improper, arbitrary, or capricious. The commission may, prior to the decision being rendered, transfer to another hearing officer the proceedings on an appeal determination before a hearing officer. The complainant, respondent-assessor, or other party shall be duly notified of a hearing officer's decision and order, together with findings of fact and conclusions of law. Appeals from decisions of hearing officers shall be made pursuant to section 138.432.

[5.] 6. All decisions issued pursuant to this section or section 138.432 by the commission or any of its duly assigned hearing officers shall be issued no later than sixty days after the hearing on the matter to be decided is held or the date on which the last party involved in such matter files his or her brief, whichever event later occurs.

321.250. BOARD TO CERTIFY RATE OF LEVY TO COUNTY COMMISSION. — On or before the [first day of September] **applicable date required under section 67.110** of each year, the board shall certify to the county commission of each county within which the district is located a rate of levy so fixed by the board as provided by law, with directions that at the time and in the manner required by law for levy of taxes for county purposes such county commissions shall levy a tax at the rate so fixed and determined upon the assessed valuation of all the taxable tangible property within the district, in addition to such other taxes as may be levied by such county commissions.

Approved July 8, 2010

HB 1408 [CCS SS HCS HB 1408 & 1514]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the time period before interest is paid on an overpayment of income tax from four months to ninety days after the last date to file a return, including an extension, or the date the return was filed

AN ACT to repeal sections 32.069 and 143.811, RSMo, and to enact in lieu thereof two new sections relating to interest on overpayments of taxes.

SECTION

A. Enacting clause.

32.069. Interest allowed and paid on refund or overpayment of interest paid in excess of annual interest rate.

143.811. Interest on overpayment.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.069 and 143.811, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 32.069 and 143.811, to read as follows:

32.069. INTEREST ALLOWED AND PAID ON REFUND OR OVERPAYMENT OF INTEREST PAID IN EXCESS OF ANNUAL INTEREST RATE. — Notwithstanding any other provision of law to the contrary, interest shall be allowed and paid on any refund or overpayment at the rate determined by section 32.068 only if the overpayment is not refunded within one hundred twenty days, **or within ninety days in the case of taxes imposed by sections 143.011 and 143.041**, from the latest of the following dates:

- (1) The last day prescribed for filing a tax return or refund claim, without regard to any extension of time granted;
- (2) The date the return, payment, or claim is filed; or
- (3) The date the taxpayer files for a credit or refund and provides accurate and complete documentation to support such claim.

143.811. INTEREST ON OVERPAYMENT. — 1. Under regulations prescribed by the director of revenue, interest shall be allowed and paid at the rate determined by section 32.065, RSMo, on any overpayment in respect of the tax imposed by sections 143.011 to 143.996; except that, where the overpayment resulted from the filing of an amendment of the tax by the taxpayer after the last day prescribed for the filing of the return, interest shall be allowed and paid at the rate of six percent per annum. With respect to the part of an overpayment attributable to a deposit made pursuant to subsection 2 of section 143.631, interest shall be paid thereon at the rate in section 32.065, RSMo, from the date of the deposit to the date of refund. No interest shall be allowed or paid if the amount thereof is less than one dollar.

2. For purposes of this section:

- (1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day determined without regard to any extension of time granted the taxpayer;
- (2) Any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year, and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid by him on the fifteenth day of the fourth month following the close of his taxable year to which such amount constitutes a credit or payment.

3. For purposes of this section with respect to any withholding tax:

(1) If a return for any period ending with or within a calendar year is filed before April fifteenth of the succeeding calendar year, such return shall be considered filed April fifteenth of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before April fifteenth of the succeeding calendar year, such tax shall be considered paid on April fifteenth of such succeeding calendar year.

4. If any overpayment of tax imposed by sections [143.011 to 143.996] **143.061 and 143.071** is refunded within four months after the last date prescribed (or permitted by extension of time) for filing the return of such tax or within four months after the return was filed, whichever is later, no interest shall be allowed under this section on overpayment.

5. **If any overpayment of tax imposed by sections 143.011 and 143.041 is refunded within ninety days after the last date prescribed or permitted by extension of time for filing the return of such tax, no interest shall be allowed under this section on overpayment.**

6. Any overpayment resulting from a carryback, including a net operating loss and a corporate capital loss, shall be deemed not to have been made prior to the close of the taxable year in which the loss arises.

[6.] 7. Any overpayment resulting from a carryback of a tax credit, including but not limited to the tax credits provided in sections 253.557 and 348.432, RSMo, shall be deemed not to have been made prior to the close of the taxable year in which the tax credit was authorized. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to the provisions of this subsection and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 163.005, RSMo.

Approved July 8, 2010

HB 1442 [CCS SS SCS HB 1442]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding local taxes

AN ACT to repeal sections 67.1000, 67.1360, 67.1361, 67.2000, 70.220, 94.510, 94.577, 94.900, 94.902, 138.431, and 144.030, RSMo, and to enact in lieu thereof nineteen new sections relating to taxes, with an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 67.1000. Transient guests to pay tax on sleeping rooms in hotels and motels, purpose to fund convention and visitors bureau, any county and certain cities — limitation on tax, Jefferson City.
- 67.1018. Transient guest tax to pay for law enforcement and promotion of tourism (Carter County).
- 67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
- 67.1361. Tax on charges for sleeping rooms for certain counties and cities (Buchanan County and City of St. Joseph).
- 67.2000. Creation of an exhibition center and recreational facility district, petition, hearing, ballot form — board of trustees, powers — trust fund created — sales tax authorization, procedure — dissolution of district (Buchanan, Caldwell, Camden, Clinton, Cole, Daviess, DeKalb, Greene, Jefferson, Miller, Morgan, Newton, and Wright counties).
- 70.220. Political subdivisions may cooperate with each other, with other states, the United States or private persons — tax distribution agreement, authorized for certain counties and cities (Buchanan County and city of St. Joseph; Greene County and city of Springfield).
- 94.271. Transient guest tax for the promotion of tourism (city of Grandview).
- 94.510. Imposition of tax, election — rate — collection — abolishment of tax, effect of.

- 94.577. Sales tax imposed in certain cities — rates of tax — election procedure — revenue to be used for capital improvements — revenue bonds, retirement — special trust fund — limitation on use of revenue by city of St. Louis — refunds authorized — Kansas City alternative tax authorized.
- 94.832. Transient guest tax for tourism and infrastructure improvements (North Kansas City).
- 94.840. Transient guest tax for tourism and convention facilities (city of Raytown).
- 94.900. Sales tax authorized (Blue Springs, Excelsior Springs, Harrisonville, Peculiar) — proceeds to be used for public safety purposes — ballot language — collection of tax, procedure.
- 94.902. Sales tax authorized for certain cities (Gladstone, Grandview, Raytown) — ballot, effective date — administration and collection — refunds, use of funds upon establishment of tax — repeal.
- 94.1011. Transient guest tax for multipurpose conference and convention center (city of Waynesville).
- 137.1040. Tax imposed for upkeep and maintenance of cemeteries (Counties not adopting an alternative form of government).
- 138.431. Hearing officers of tax commission to hear appeals, when, procedure — appeal of hearing officer's decision, how.
- 144.019. Resale of tangible personal property, exempt or excluded from sales and use tax, when — intent of exclusion.
- 144.030. Exemptions from state and local sales and use taxes.
 - 1. Limitations on applicability.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.1000, 67.1360, 67.1361, 67.2000, 70.220, 94.510, 94.577, 94.900, 94.902, 138.431, and 144.030, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 67.1000, 67.1018, 67.1360, 67.1361, 67.2000, 70.220, 94.271, 94.510, 94.577, 94.832, 94.840, 94.900, 94.902, 94.1011, 137.1040, 138.431, 144.019, 144.030, and 1, to read as follows:

67.1000. TRANSIENT GUESTS TO PAY TAX ON SLEEPING ROOMS IN HOTELS AND MOTELS, PURPOSE TO FUND CONVENTION AND VISITORS BUREAU, ANY COUNTY AND CERTAIN CITIES—LIMITATION ON TAX, JEFFERSON CITY. — 1. The governing body of any county or of any city which is the county seat of any county or which now or hereafter has a population of more than three thousand five hundred inhabitants and which has heretofore been authorized by the general assembly, or of any other city which has a population of more than eighteen thousand and less than forty-five thousand inhabitants located in a county of the first classification with a population over two hundred thousand adjacent to a county of the first classification with a population over nine hundred thousand, may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at an election permitted under section 115.123, RSMo, a proposal to authorize the governing body of the city or county to impose a tax under the provisions of this section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city or county has contracted, and which is established for the purpose of promoting the city or county as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.

2. In any county of the third classification without a township form of government and with more than forty-one thousand one hundred but fewer than forty-one thousand two hundred inhabitants, "transient guests", as used in this section and section 67.1002, means a person or persons who occupy a room or rooms in a hotel or motel for ninety days or less during any calendar quarter.

3. Provisions of this section to the contrary notwithstanding, the governing body of any home rule city with more than thirty-nine thousand six hundred but fewer than

thirty-nine thousand seven hundred inhabitants and partially located in any county of the first classification with more than seventy-one thousand three hundred but fewer than seventy-one thousand four hundred inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city, which shall be not more than seven percent per occupied room per night, except that such tax shall not become effective unless the governing body of such city submits to the voters of the city at an election permitted under section 115.123, a proposal to authorize the governing body of the city to impose a tax under the provisions of this section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city has contracted, and which is established for the purpose of promoting the city as a convention, visitor, and tourist center. Such tax shall be stated separately from all other charges and taxes.

67.1018. TRANSIENT GUEST TAX TO PAY FOR LAW ENFORCEMENT AND PROMOTION OF TOURISM (CARTER COUNTY). — 1. The governing body of any county of the third classification without a township form of government and with more than five thousand nine hundred but fewer than six thousand inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the county or a portion thereof, which shall not be more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the county submits to the voters of the county at a state general or primary election a proposal to authorize the governing body of the county to impose a tax under this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and fifty percent of the proceeds of such tax shall be used by the county to fund law enforcement with the remaining fifty percent of such proceeds to be used to fund the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of county) at a rate of (insert rate of percent) percent for the benefit of the county?

☐ YES

☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax authorized by this section shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the county and such question is approved by a majority of the qualified voters of the county voting on the question.

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — 1. The governing body of the following cities and counties may impose a tax as provided in this section:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification

without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants;

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants;

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

(27) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(28) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county through the creation of a tourism district which may include, in addition to the geographic area of such city, the area encompassed by the portion of the school district, located within a county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, having an average daily attendance for school year 2005-06 between one thousand eight hundred and one thousand nine hundred;

(29) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(30) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants;

(31) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants; [or]

(32) Any city of the fourth classification with more than three thousand eight hundred but fewer than three thousand nine hundred inhabitants and located in any county of the first classification with more than thirty-nine thousand seven hundred but fewer than thirty-nine thousand eight hundred inhabitants;

(33) Any city of the fourth classification with more than one thousand eight hundred but fewer than one thousand nine hundred inhabitants and located in any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(34) Any county of the third classification without a township form of government and with more than twelve thousand one hundred but fewer than twelve thousand two hundred inhabitants; or

(35) Any city of the fourth classification with more than three thousand eight hundred but fewer than four thousand inhabitants and located in more than one county; provided, however, that motels owned by not-for-profit organizations are exempt.

2. The governing body of any city or county listed in subsection 1 of this section may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

67.1361. TAX ON CHARGES FOR SLEEPING ROOMS FOR CERTAIN COUNTIES AND CITIES (BUCHANAN COUNTY AND CITY OF ST. JOSEPH). — 1. The governing body of any county of the first classification without a charter form of government and with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants and the governing body of any home rule city with more than seventy-three thousand nine hundred but less than seventy-four thousand inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than eight percent per occupied room or slip per night, except that such tax shall not become effective unless the governing body of the county or city submits to the voters of the county or city at a state general, primary or special election, a proposal to authorize the governing body of the county or city to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county for funding the promotion of tourism and convention facilities **including capital expenditures therefor**. Such tax shall be stated separately from all other charges and taxes.

2. Any tax imposed by a county pursuant to subsection 1 of this section shall apply only to unincorporated areas of such county.

3. The question shall be submitted in substantially the following form:

Shall the (city or county) levy a tax of percent on each sleeping room or campsite occupied and rented by transient guests and any docking facility which rents slips to recreational boats which are used by transients for sleeping in the (city or county), where the proceeds of which shall be expended for promotion of tourism and convention facilities?

☐ YES

☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the calendar quarter

following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body for the city or county shall have no power to impose the tax authorized by this section unless and until the governing body of the city or county again submits the question to the qualified voters of the city or county and such question is approved by a majority of the qualified voters voting on the question.

4. On and after the effective date of any tax authorized under the provisions of this section, the city or county may adopt one of the two following provisions for the collection and administration of the tax:

(1) The city or county may adopt rules and regulations for the internal collection of such tax by the city or county officers usually responsible for collection and administration of city or county taxes; or

(2) The city or county enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in this section. In the event any city or county enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement and operation of such tax, and the director of revenue shall collect the additional tax authorized under the provisions of this section. The tax authorized under the provisions of this section shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue, and the director of revenue shall retain an amount not to exceed one percent for cost of collection.

5. If a tax is imposed by a city or county under this section, the city or county may collect a penalty of one percent and interest not to exceed two percent per month on unpaid taxes which shall be considered delinquent thirty days after the last day of each quarter.

6. As used in this section "transient guests" means a person or persons who occupy room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.2000. CREATION OF AN EXHIBITION CENTER AND RECREATIONAL FACILITY DISTRICT, PETITION, HEARING, BALLOT FORM — BOARD OF TRUSTEES, POWERS — TRUST FUND CREATED — SALES TAX AUTHORIZATION, PROCEDURE — DISSOLUTION OF DISTRICT (BUCHANAN, CALDWELL, CAMDEN, CLINTON, COLE, DAVIESS, DEKALB, GREENE, JEFFERSON, MILLER, MORGAN, NEWTON, AND WRIGHT COUNTIES). — 1. This section shall be known as the "Exhibition Center and Recreational Facility District Act".

2. Whenever not less than fifty owners of real property located within any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants, or any county of the first classification with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants, or any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants, or any county of the second classification with more than fifty-two thousand six hundred but less than fifty-two thousand seven hundred inhabitants, or any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants, or any county of the third classification without a township form of government and with more than seventeen thousand nine hundred but less than eighteen thousand inhabitants, or any county of the first classification with more than thirty-seven thousand but less than thirty-seven thousand one hundred inhabitants, or any county of the third classification without a township form of government and with more than twenty-three thousand five hundred but less than twenty-three thousand six hundred inhabitants, or any county of the third classification without a township form of government and with more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants, or any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred

inhabitants, or any county of the third classification with a township form of government and with more than eight thousand nine hundred but fewer than nine thousand inhabitants, or any county of the third classification without a township form of government and with more than eighteen thousand nine hundred but fewer than nineteen thousand inhabitants, or any county of the third classification with a township form of government and with more than eight thousand but fewer than eight thousand one hundred inhabitants, or any county of the third classification with a township form of government and with more than eleven thousand five hundred but fewer than eleven thousand six hundred inhabitants, desire to create an exhibition center and recreational facility district, the property owners shall file a petition with the governing body of each county located within the boundaries of the proposed district requesting the creation of the district. The district boundaries may include all or part of the counties described in this section. The petition shall contain the following information:

(1) The name and residence of each petitioner and the location of the real property owned by the petitioner;

(2) A specific description of the proposed district boundaries, including a map illustrating the boundaries; and

(3) The name of the proposed district.

3. Upon the filing of a petition pursuant to this section, the governing body of any county described in this section may, by resolution, approve the creation of a district. Any resolution to establish such a district shall be adopted by the governing body of each county located within the proposed district, and shall contain the following information:

(1) A description of the boundaries of the proposed district;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The proposed sales tax rate to be voted on within the proposed district; and

(4) The proposed uses for the revenue generated by the new sales tax.

4. Whenever a hearing is held as provided by this section, the governing body of each county located within the proposed district shall:

(1) Publish notice of the hearing on two separate occasions in at least one newspaper of general circulation in each county located within the proposed district, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Rule upon all protests, which determinations shall be final.

5. Following the hearing, if the governing body of each county located within the proposed district decides to establish the proposed district, it shall adopt an order to that effect; if the governing body of any county located within the proposed district decides to not establish the proposed district, the boundaries of the proposed district shall not include that county. The order shall contain the following:

(1) The description of the boundaries of the district;

(2) A statement that an exhibition center and recreational facility district has been established;

(3) The name of the district;

(4) The uses for any revenue generated by a sales tax imposed pursuant to this section; and

(5) A declaration that the district is a political subdivision of the state.

6. A district established pursuant to this section may, at a general, primary, or special election, submit to the qualified voters within the district boundaries a sales tax of one-fourth of one percent, for a period not to exceed twenty-five years, on all retail sales within the district, which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition

center and recreational facilities. The ballot of submission shall be in substantially the following form:

Shall the (name of district) impose a sales tax of one-fourth of one percent to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities, for a period of (insert number of years)?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast in the portion of any county that is part of the proposed district favor the proposal, then the sales tax shall become effective in that portion of the county that is part of the proposed district on the first day of the first calendar quarter immediately following the election. If a majority of the votes cast in the portion of a county that is a part of the proposed district oppose the proposal, then that portion of such county shall not impose the sales tax authorized in this section until after the county governing body has submitted another such sales tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a sales tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters pursuant to this section sooner than twelve months from the date of the last proposal submitted pursuant to this section. If the qualified voters in two or more counties that have contiguous districts approve the sales tax proposal, the districts shall combine to become one district.

7. There is hereby created a board of trustees to administer any district created and the expenditure of revenue generated pursuant to this section consisting of four individuals to represent each county approving the district, as provided in this subsection. The governing body of each county located within the district, upon approval of that county's sales tax proposal, shall appoint four members to the board of trustees; at least one shall be an owner of a nonlodging business located within the taxing district, or their designee, at least one shall be an owner of a lodging facility located within the district, or their designee, and all members shall reside in the district except that one nonlodging business owner, or their designee, and one lodging facility owner, or their designee, may reside outside the district. Each trustee shall be at least twenty-five years of age and a resident of this state. Of the initial trustees appointed from each county, two shall hold office for two years, and two shall hold office for four years. Trustees appointed after expiration of the initial terms shall be appointed to a four-year term by the governing body of the county the trustee represents, with the initially appointed trustee to remain in office until a successor is appointed, and shall take office upon being appointed. Each trustee may be reappointed. Vacancies shall be filled in the same manner in which the trustee vacating the office was originally appointed. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership. Trustees may be removed if:

(1) By a two-thirds vote, the board moves for the member's removal and submits such motion to the governing body of the county from which the trustee was appointed; and

(2) The governing body of the county from which the trustee was appointed, by a majority vote, adopts the motion for removal.

8. The board of trustees shall have the following powers, authority, and privileges:

(1) To have and use a corporate seal;

(2) To sue and be sued, and be a party to suits, actions, and proceedings;

(3) To enter into contracts, franchises, and agreements with any person or entity, public or private, affecting the affairs of the district, including contracts with any municipality, district, or state, or the United States, and any of their agencies, political subdivisions, or instrumentalities, for the funding, including without limitation interest rate exchange or swap agreements, planning, development, construction, acquisition, maintenance, or operation of a single exhibition center and recreational facilities or to assist in such activity. "Recreational facilities" means locations

explicitly designated for public use where the primary use of the facility involves participation in hobbies or athletic activities;

(4) To borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property and income of the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property of the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine;

(5) To acquire, transfer, donate, lease, exchange, mortgage, and encumber real and personal property in furtherance of district purposes;

(6) To refund any bonds, notes, or other obligations of the district without an election. The terms and conditions of refunding obligations shall be substantially the same as those of the original issue, and the board shall provide for the payment of interest at not to exceed the legal rate, and the principal of such refunding obligations in the same manner as is provided for the payment of interest and principal of obligations refunded;

(7) To have the management, control, and supervision of all the business and affairs of the district, and the construction, installation, operation, and maintenance of district improvements therein; to collect rentals, fees, and other charges in connection with its services or for the use of any of its facilities;

(8) To hire and retain agents, employees, engineers, and attorneys;

(9) To receive and accept by bequest, gift, or donation any kind of property;

(10) To adopt and amend bylaws and any other rules and regulations not in conflict with the constitution and laws of this state, necessary for the carrying on of the business, objects, and affairs of the board and of the district; and

(11) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted by this section.

9. There is hereby created the "Exhibition Center and Recreational Facility District Sales Tax Trust Fund", which shall consist of all sales tax revenue collected pursuant to this section. The director of revenue shall be custodian of the trust fund, and moneys in the trust fund shall be used solely for the purposes authorized in this section. Moneys in the trust fund shall be considered nonstate funds pursuant to section 15, article IV, Constitution of Missouri. The director of revenue shall invest moneys in the trust fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the trust fund. All sales taxes collected by the director of revenue pursuant to this section on behalf of the district, less one percent for the cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in the trust fund. The director of revenue shall keep accurate records of the amount of moneys in the trust fund which was collected in the district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of the officers of each

district and the general public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district. The director of revenue may authorize refunds from the amounts in the trust fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of the district.

10. The sales tax authorized by this section is in addition to all other sales taxes allowed by law. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, apply to the sales tax imposed pursuant to this section.

11. Any sales tax imposed pursuant to this section shall not extend past the initial term approved by the voters unless an extension of the sales tax is submitted to and approved by the qualified voters in each county in the manner provided in this section. Each extension of the sales tax shall be for a period not to exceed twenty years. The ballot of submission for the extension shall be in substantially the following form:

Shall the (name of district) extend the sales tax of one-fourth of one percent for a period of (insert number of years) years to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast favor the extension, then the sales tax shall remain in effect at the rate and for the time period approved by the voters. If a sales tax extension is not approved, the district may submit another sales tax proposal as authorized in this section, but the district shall not submit such a proposal to the voters sooner than twelve months from the date of the last extension submitted.

12. Once the sales tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the sales tax. The sales tax shall not be abolished or terminated while the district has any financing or other obligations outstanding; provided that any new financing, debt, or other obligation or any restructuring or refinancing of an existing debt or obligation incurred more than ten years after voter approval of the sales tax provided in this section or more than ten years after any voter-approved extension thereof shall not cause the extension of the sales tax provided in this section or cause the final maturity of any financing or other obligations outstanding to be extended. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities. If the district abolishes the sales tax, the district shall notify the director of revenue of the action at least ninety days before the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the sales tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the sales tax in the district, the director of revenue shall remit the balance in the account to the district and close the account of the district. The director of revenue shall notify the district of each instance of any amount refunded or any check redeemed from receipts due the district.

13. In the event that the district is dissolved or terminated by any means, the governing bodies of the counties in the district shall appoint a person to act as trustee for the district so dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and subscribe an oath to faithfully discharge the duties of the office, and shall give bond with sufficient security, approved by the governing bodies of the counties, to the use of the dissolved or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of

the district, shall pay over to the county treasurer of each county in the district and take receipt for all remaining moneys in amounts based on the ratio the levy of each county bears to the total levy for the district in the previous three years or since the establishment of the district, whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver to the clerk of the governing body of any county in the district all books, papers, records, and deeds belonging to the dissolved district.

70.220. POLITICAL SUBDIVISIONS MAY COOPERATE WITH EACH OTHER, WITH OTHER STATES, THE UNITED STATES OR PRIVATE PERSONS — TAX DISTRIBUTION AGREEMENT, AUTHORIZED FOR CERTAIN COUNTIES AND CITIES (BUCHANAN COUNTY AND CITY OF ST. JOSEPH; GREENE COUNTY AND CITY OF SPRINGFIELD). — 1. Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision.

2. Any municipality or political subdivision of this state may contract with one or more adjacent municipalities or political subdivisions to share the tax revenues of such cooperating entities that are generated from real property and the improvements constructed thereon, if such real property is located within the boundaries of either or both municipalities or subdivisions and within three thousand feet of a common border of the contracting municipalities or political subdivisions. The purpose of such contract shall be within the scope of powers of each municipality or political subdivision. Municipalities or political subdivisions separated only by a public street, easement, or right-of-way shall be considered to share a common border for purposes of this subsection.

3. **Any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants may contract with any county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants to share tax revenues for the purpose of promoting tourism and the construction, maintenance, and improvement of convention center and recreational facilities. In the event an agreement for the distribution of tax revenues is entered into between a county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants and a home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants, then all revenue received from such taxes shall be distributed in accordance with the terms of said agreement. For purposes of this subsection, the term "tax revenues" shall include tax revenues generated from the imposition of a transient guest tax imposed under the provisions of section 67.1361.**

4. If any contract or cooperative action entered into under this section is between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, such contract or cooperative action shall be approved by the governing body of the unit of government in which such elective or appointive official resides.

[4.] 5. In the event an agreement for the distribution of tax revenues is entered into between a county of the first classification without a charter form of government and a constitutional charter city with a population of more than one hundred forty thousand that is located in said county prior to a vote to authorize the imposition of such tax, then all revenue received from such tax shall be distributed in accordance with said agreement for so long as the tax remains in effect or until the agreement is modified by mutual agreement of the parties.

94.271. TRANSIENT GUEST TAX FOR THE PROMOTION OF TOURISM (CITY OF GRANDVIEW). — 1. The governing body of any city of the fourth classification with more than twenty-four thousand eight hundred but fewer than twenty-five thousand inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof, which shall not be more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city submits to the voters of the city at a state general or primary election a proposal to authorize the governing body of the city to impose a tax under this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and the proceeds of such tax shall be used by the city for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city) at a rate of (insert rate of percent) percent for the purpose of promoting tourism?

☐ YES

☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax authorized by this section shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the city and such question is approved by a majority of the qualified voters of the city voting on the question.

3. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

94.510. IMPOSITION OF TAX, ELECTION — RATE — COLLECTION — ABOLISHMENT OF TAX, EFFECT OF. — 1. Any city may, by a majority vote of its council or governing body, impose a city sales tax for the benefit of such city in accordance with the provisions of sections 94.500 to 94.550; provided, however, that no ordinance enacted pursuant to the authority granted by the provisions of sections 94.500 to 94.550 shall be effective unless the legislative body of the city submits to the voters of the city, at a public election, a proposal to authorize the legislative body of the city to impose a tax under the provisions of sections 94.500 to 94.550.

The ballot of submission shall be in substantially the following form:

Shall the city of (insert name of city) impose a city sales tax of (insert rate of percent) percent?

☐ YES

☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the legislative body of the city shall have no power to impose the tax herein authorized unless and until the legislative body of the city shall again have submitted another proposal to authorize the legislative body of the city to impose the tax under the provisions of sections 94.500 to 94.550, and such proposal is approved by a majority of the qualified voters voting thereon.

2. The sales tax may be imposed at a rate of one-half of one percent, seven-eighths of one percent or one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo; except that, each city not within a county may impose such tax at a rate not to exceed one and three-eighths percent.

3. If any city in which a city tax has been imposed in the manner provided for in sections 94.500 to 94.550 shall thereafter change or alter its boundaries, the city clerk of the city shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by the act shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

4. If any city abolishes the tax authorized under this section, the repeal of such tax shall become effective December thirty-first of the calendar year in which such abolishment was approved. Each city shall notify the director of revenue at least ninety days prior to the effective date of the expiration of the sales tax authorized by this section and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of such tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the date of expiration of the tax authorized by this section in such city, the director of revenue shall remit the balance in the account to the city and close the account of that city. The director of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

94.577. SALES TAX IMPOSED IN CERTAIN CITIES — RATES OF TAX — ELECTION PROCEDURE — REVENUE TO BE USED FOR CAPITAL IMPROVEMENTS — REVENUE BONDS, RETIREMENT — SPECIAL TRUST FUND — LIMITATION ON USE OF REVENUE BY CITY OF ST. LOUIS — REFUNDS AUTHORIZED — KANSAS CITY ALTERNATIVE TAX AUTHORIZED. — 1. The governing body of any municipality except those located in whole or in part within any first class county having a charter form of government and not containing any part of a city with a population of four hundred thousand or more and adjacent to a city not within a county for that part of the municipality located within such first class county is hereby authorized to impose, by ordinance or order, a one-eighth, one-fourth, three-eighths, or one-half of one percent sales tax on all retail sales made in such municipality which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of funding capital improvements, including the operation and maintenance of capital improvements, which may be funded by issuing bonds which will be retired by the revenues received from the sales tax authorized by this section or the retirement of debt under previously authorized bonded indebtedness. A municipality located in a charter county may impose a sales tax on all retail sales for capital improvements as provided in section 94.890. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; but no ordinance imposing a sales tax under the provisions of this section shall be effective unless the governing body of the municipality submits to the voters of the municipality, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the municipality to impose such tax and, if such tax is to be used to retire bonds authorized under this section, to authorize such bonds and their retirement by such tax, or to authorize the retirement of debt under previously authorized bonded indebtedness.

2. The ballot of submission shall contain, but need not be limited to:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) impose a sales tax of (insert amount) for the purpose of funding capital improvements which may include the retirement of debt under previously authorized bonded indebtedness?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO"; or

(2) If the proposal submitted involves authorization to issue bonds and repay such bonds with revenues from the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) issue bonds in the amount of (insert amount) to fund capital improvements and impose a sales tax of (insert amount) to repay bonds?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in box opposite "NO". If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, including when the proposal authorizes the reduction of debt under previously authorized bonded indebtedness under subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect, except that any proposal submitted under subdivision (2) of this subsection to issue bonds and impose a sales tax to retire such bonds must be approved by the constitutionally required percentage of the voters voting thereon to become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality shall have no power to issue any bonds or impose the sales tax authorized in this section unless and until the governing body of the municipality shall again have submitted another proposal to authorize the governing body of the municipality to issue any bonds or impose the sales tax authorized by this section, and such proposal is approved by the requisite majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section, except that any municipality with a population of greater than four hundred thousand and located within more than one county may submit a proposal pursuant to this section to the voters sooner than twelve months from the date of the last proposal submitted pursuant to this section if submitted to the voters on or before November 6, 2001.

3. All revenue received by a municipality from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for capital improvements, including the operation and maintenance of capital improvements, for so long as the tax shall remain in effect. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with revenues raised by the tax authorized by this section. Any funds in the special trust fund required by this subsection which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this section which have not been imposed to retire bonds issued pursuant to this section.

4. All revenue received by a municipality which issues bonds under this section and imposes the tax authorized by this section to retire such bonds shall be deposited in a special trust fund and shall be used solely to retire such bonds, except to the extent that such funds are required for the operation and maintenance of capital improvements. Once all of such bonds have been retired, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with the revenue received

as a result of the issuance of such bonds. Any funds in the special trust fund required by this subsection which are not needed to meet current obligations under the bonds issued under this section may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this section which have been imposed to retire bonds issued under this section.

5. After the effective date of any tax imposed under the provisions of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax in the same manner as provided in sections 94.500 to 94.550, and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed pursuant to this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. No tax imposed pursuant to this section for the purpose of retiring bonds issued under this section may be terminated until all of such bonds have been retired.

7. In any city not within a county, no tax shall be imposed pursuant to this section for the purpose of funding in whole or in part the construction, operation or maintenance of a sports stadium, field house, indoor or outdoor recreational facility, center, playing field, parking facility or anything incidental or necessary to a complex suitable for any type of professional sport or recreation, either upon, above or below the ground.

8. Any tax imposed under this section in any home rule city with more than four hundred thousand inhabitants and located in more than one county solely for public transit purposes shall not be considered economic activity taxes as such term is defined under sections 99.805 and 99.918, RSMo, and tax revenues derived from such tax shall not be subject to allocation under the provisions of subsection 3 of section 99.845, RSMo, or subsection 4 of section 99.957, RSMo.

9. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such municipalities. If any municipality abolishes the tax, the municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such municipality, the director of revenue shall remit the balance in the account to the municipality and close the account of that municipality. The director of revenue shall notify each municipality of each instance of any amount refunded or any check redeemed from receipts due the municipality.

10. If any city abolishes the tax authorized under this section, the repeal of such tax shall become effective December thirty-first of the calendar year in which such abolishment was approved. Each city shall notify the director of revenue at least ninety days prior to the effective date of the expiration of the sales tax authorized by this section and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of such tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the date of expiration of the tax authorized by this section in such city, the director of revenue shall remit the balance in the account to the city and close the account of that city. The director

of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

94.832. TRANSIENT GUEST TAX FOR TOURISM AND INFRASTRUCTURE IMPROVEMENTS (NORTH KANSAS CITY). — 1. The governing body of any city of the third classification with more than four thousand seven hundred but fewer than four thousand eight hundred inhabitants and located in any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants may impose, by order or ordinance, a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof. The tax shall be not more than five percent per occupied room per night, and shall be imposed solely for the purpose of funding tourism and infrastructure improvements. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such order or ordinance shall become effective unless the governing body of the city submits to the voters of the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the city and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue generated by the tax shall be collected by the city collector of revenue, shall be deposited in a special trust fund, and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund that are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any city that has adopted the tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. If a majority of the votes cast on the proposal are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city, and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any city that has adopted the tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least ten percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters

of the city and the repeal is approved by a majority of the qualified voters voting on the question.

6. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

94.840. TRANSIENT GUEST TAX FOR TOURISM AND CONVENTION FACILITIES (CITY OF RAYTOWN). — 1. The governing body of any city of the fourth classification with more than thirty thousand three hundred but fewer than thirty thousand seven hundred inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof, which shall not be more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city submits to the voters of the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and the proceeds of such tax shall be used by the city for the promotion, operation, and development of tourism and convention facilities. Such tax shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city) at a rate of (insert rate of percent) percent for the purpose of the promotion, operation, and development of tourism and convention facilities?

☐ YES

☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax authorized by this section shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the city and such question is approved by a majority of the qualified voters of the city voting on the question.

3. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

94.900. SALES TAX AUTHORIZED (BLUE SPRINGS, EXCELSIOR SPRINGS, HARRISONVILLE, PECULIAR) — PROCEEDS TO BE USED FOR PUBLIC SAFETY PURPOSES — BALLOT LANGUAGE — COLLECTION OF TAX, PROCEDURE. — 1. The governing body of any city of the third classification with more than ten thousand eight hundred but less than ten thousand nine hundred inhabitants located at least partly within a county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, or any city of the fourth classification with more than eight thousand nine hundred but fewer than nine thousand inhabitants, **or any city of the fourth classification with more than two thousand six hundred but fewer than two thousand seven hundred inhabitants and located in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants, or any home rule city with more than forty-eight thousand but fewer than forty-nine thousand inhabitants** is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one

percent on all retail sales made in such city which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the city submits to the voters of the city, at a county or state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax.

2. If the proposal submitted involves only authorization to impose the tax authorized by this section, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the city of (city's name) impose a citywide sales tax of
(insert amount) for the purpose of improving the public safety of the city?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a proposal receives less than the required majority, then the governing body of the city shall have no power to impose the sales tax herein authorized unless and until the governing body of the city shall again have submitted another proposal to authorize the governing body of the city to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a city from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for improving the public safety for such city for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for improving the public safety for the city. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

5. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director of the department of revenue shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of the department of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

6. The director of the department of revenue may make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the department of revenue of the action at least ninety days prior to the effective date of the repeal and the director of the department of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director of the department of revenue shall remit the balance in the account to the city and close the account of that city. The director of the department of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

94.902. SALES TAX AUTHORIZED FOR CERTAIN CITIES (GLADSTONE, GRANDVIEW, RAYTOWN) — BALLOT, EFFECTIVE DATE — ADMINISTRATION AND COLLECTION — REFUNDS, USE OF FUNDS UPON ESTABLISHMENT OF TAX — REPEAL. — 1. The governing body of any city of the third classification with more than twenty-six thousand three hundred but less than twenty-six thousand seven hundred inhabitants, or any city of the fourth classification with more than thirty thousand three hundred but fewer than thirty thousand seven hundred inhabitants, **or any city of the fourth classification with more than twenty-four thousand eight hundred but fewer than twenty-five thousand inhabitants**, may impose, by order or ordinance, a sales tax on all retail sales made in the city which are subject to taxation under chapter 144, RSMo. The tax authorized in this section may be imposed in an amount of up to one-half of one percent, and shall be imposed solely for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance imposing a sales tax under this section shall not become effective unless the governing body of the city submits to the voters residing within the city, at a county or state general, primary, or special election, a proposal to authorize the governing body of the city to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall the city of (city's name) impose a citywide sales tax at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?
☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments to the order or ordinance shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the sales tax. If a majority of the votes cast on the proposal by the qualified voters voting thereon are opposed to the proposal, then the tax shall not become effective unless the proposal is resubmitted under this section to the qualified voters and such proposal is approved by a majority of the qualified voters voting on the proposal. However, in no event shall a proposal under this section be submitted to the voters sooner than twelve months from the date of the last proposal under this section.

3. Any sales tax imposed under this section shall be administered, collected, enforced, and operated as required in section 32.087, RSMo. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created in the state treasury, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director shall keep accurate records of the amount of money in the trust fund and which was collected in each city imposing a sales tax under this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax. Such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The director of the department of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the action at least ninety days before the effective date of the repeal, and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

5. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) repeal the sales tax imposed at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?

☐ YES

☐ NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters, and the repeal is approved by a majority of the qualified voters voting on the question.

6. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of

the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

94.1011. TRANSIENT GUEST TAX FOR MULTIPURPOSE CONFERENCE AND CONVENTION CENTER (CITY OF WAYNESVILLE). — 1. The governing body of any city of the third classification with more than three thousand five hundred but fewer than three thousand six hundred inhabitants may impose, by order or ordinance, a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof. The tax shall be not more than three percent per occupied room per night, and shall be imposed solely for the purpose of funding the construction, maintenance, and repair of a multipurpose conference and convention center. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such order or ordinance shall become effective unless the governing body of the city submits to the voters of the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the city and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue generated by the tax shall be collected by the city collector of revenue, shall be deposited in a special trust fund, and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund that are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any city that has adopted the tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. If a majority of the votes cast on the proposal are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city, and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any city that has adopted the tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the

calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters of the city and the repeal is approved by a majority of the qualified voters voting on the question.

6. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

137.1040. TAX IMPOSED FOR UPKEEP AND MAINTENANCE OF CEMETERIES (COUNTIES NOT ADOPTING AN ALTERNATIVE FORM OF GOVERNMENT).— 1. In addition to other levies authorized by law, the county commission in counties not adopting an alternative form of government and the proper administrative body in counties adopting an alternative form of government, or the governing body of any city, town, or village, in their discretion may levy an additional tax, not to exceed one quarter of one cent on each one hundred dollars assessed valuation, on all taxable real property located within such city, town, village, or county, all of such tax to be collected and allocated to the city, town, village, or county treasury, where it shall be known and designated as the "Cemetery Maintenance Trust Fund" to be used for the upkeep and maintenance of cemeteries located within such city, town, village, or county.

2. To the extent necessary to comply with article X, section 22(a) of the Missouri Constitution, for any city, town, village, or county with a tax levy at or above the limitations provided under article X, section 11(b), no ordinance adopted under this section shall become effective unless the county commission or proper administrative body of the county, or governing body of the city, town, or village submits to the voters of the city, town, village, or county at a state general, primary, or special election a proposal to authorize the imposition of a tax under this section. The tax authorized under this section shall be levied and collected in the same manner as other real property taxes are levied and collected within the city, town, village, or county. Such tax shall be in addition to all other taxes imposed on real property, and shall be stated separately from all other charges and taxes. Such tax shall not become effective unless the county commission or proper administrative body of the county or governing body of the city, town, or village, by order or ordinance, submits to the voters of the county a proposal to authorize the city, town, village, or county to impose a tax under this section on any day available for such city, town, village, or county to hold elections or at a special election called for that purpose.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city, town, village, or county) impose a tax on all real property situated in (name of the city, town, village, or county) at a rate of (insert rate not to exceed one quarter of one cent per one hundred dollars assessed valuation) for the sole purpose of providing funds for the maintenance, upkeep, and preservation of city, town, village, or county cemeteries?

☐ YES

☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following notification to the city, town, village, or county collector. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

4. The tax imposed under this section shall be known as the "Cemetery Maintenance Tax". Each city, town, village, or county imposing a tax under this section shall establish separate trust funds to be known as the "Cemetery Maintenance Trust Fund". The city, town, village, or county treasurer shall deposit the revenue derived from the tax imposed under this section for cemetery purposes in the city, town, village, or county cemetery maintenance trust fund. The proceeds of such tax shall be appropriated by the county commission or appropriate administrative body, or the governing body of the city, town, or village exclusively for the maintenance, upkeep, and preservation of cemeteries located within the jurisdiction of such commission or body.

5. All applicable provisions in this chapter relating to property tax shall apply to the collection of any tax imposed under this section.

138.431. HEARING OFFICERS OF TAX COMMISSION TO HEAR APPEALS, WHEN, PROCEDURE — APPEAL OF HEARING OFFICER'S DECISION, HOW. — 1. To hear and decide appeals pursuant to section 138.430, the commission shall appoint one or more hearing officers. The hearing officers shall be subject to supervision by the commission. No person shall participate on behalf of the commission in any case in which such person is an interested party.

2. The commission may assign such appeals as it deems fit to a hearing officer for disposition.

(1) The assignment shall be deemed made when the scheduling order is first issued by the commission and signed by the hearing officer assigned, unless another hearing officer is assigned to the case for disposition by other language in said order.

(2) A change of hearing officer, or a reservation of the appeal for disposition as described in subsection 3 of this section, shall be ordered by the commission in any appeal upon the timely filing of a written application by a party to disqualify the hearing officer assigned. The application shall be filed within thirty days from the assignment of any appeal to a hearing officer and need not allege or prove any cause for such change and need not be verified. No more than one change of hearing officer shall be allowed for each party in any appeal.

3. The commission may, in its discretion, reserve such appeals as it deems fit to be heard and decided by the full commission, a quorum thereof, or any commissioner, subject to the provisions of section 138.240, and, in such case, the decision shall be final, subject to judicial review in the manner provided in subsection 4 of section 138.470.

[3.] 4. The manner in which appeals shall be presented and the conduct of hearings shall be made in accordance with rules prescribed by the commission for determining the rights of the parties; provided that, the commission, with the consent of all the parties, may refer an appeal to mediation. The commission shall promulgate regulations for mediation pursuant to this section. No regulation or portion of a regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. There shall be no presumption that the assessor's valuation is correct. A full and complete record shall be kept of all proceedings. All testimony at any hearing shall be recorded but need not be transcribed unless the matter is further appealed.

[4.] 5. Unless an appeal is voluntarily dismissed, a hearing officer, after affording the parties reasonable opportunity for fair hearing, shall issue a decision and order affirming, modifying, or reversing the determination of the board of equalization, and correcting any assessment which is unlawful, unfair, improper, arbitrary, or capricious. The commission may, prior to the decision being rendered, transfer to another hearing officer the proceedings on an appeal determination before a hearing officer. The complainant, respondent-assessor, or other party shall be duly notified of a hearing officer's decision and order, together with findings of fact and conclusions of law. Appeals from decisions of hearing officers shall be made pursuant to section 138.432.

[5.] 6. All decisions issued pursuant to this section or section 138.432 by the commission or any of its duly assigned hearing officers shall be issued no later than sixty days after the

hearing on the matter to be decided is held or the date on which the last party involved in such matter files his or her brief, whichever event later occurs.

144.019. RESALE OF TANGIBLE PERSONAL PROPERTY, EXEMPT OR EXCLUDED FROM SALES AND USE TAX, WHEN — INTENT OF EXCLUSION. — 1. Notwithstanding any other provision of law to the contrary, when a purchase of tangible personal property or service subject to tax is made for the purpose of resale, such purchase is exempt or excluded under this chapter if the subsequent sale is subject to a tax in this or any other state, is for resale, is excluded from tax under this chapter, is subject to tax but exempt under this chapter, or is exempt from the sales tax laws of another state if the subsequent sale is in such other state. The purchase of tangible personal property by a taxpayer shall not be deemed to be for resale if such property is used or consumed by the taxpayer in providing a service on which tax is not imposed by subsection 1 of section 144.020, except purchases made in fulfillment of any obligation under a defense contract with the United States government.

2. For purposes of subdivision (2) of subsection 1 of section 144.020, the operator of a place of amusement, entertainment or recreation, including games or athletic events, must remit tax on the amount paid for admissions or seating accommodations, or fees paid to, or in such place of amusement, entertainment or recreation. Any subsequent sale of such admissions or seating accommodations shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such admissions or seating accommodations is exempt or excluded from payment of sales and use taxes, this provision does not require the place of amusement, entertainment, or recreation to remit tax on that sale.

3. For purposes of subdivision (6) of subsection 1 of section 144.020, the operator of a hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public must remit tax on the amount of sales or charges for all rooms, meals, and drinks furnished at such hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public. Any subsequent sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such rooms, meals, or drinks is exempt or excluded from payment of sales and use taxes, this provision does not require the hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public to remit tax on that sale.

4. The provisions of this section are intended to clarify the exemption or exclusion of purchases for resale from sales and use taxes as originally enacted in this chapter.

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to

the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative

communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for

domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this

subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, [RSMo] **and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team;**

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.

SECTION 1. LIMITATIONS ON APPLICABILITY. — Notwithstanding any other provisions of law to the contrary, any tax imposed or collected by any municipality, any county, or any local taxing entity on or related to any transient accommodations, whether imposed as a hotel tax, occupancy tax, or otherwise, shall apply solely to amounts actually received by the operator of a hotel, motel, tavern, inn, tourist cabin, tourist camp, or other place in which rooms are furnished to the public. Under no circumstances shall a travel agent or intermediary be deemed an operator of a hotel, motel, tavern, inn, tourist cabin, tourist camp, or other place in which rooms are furnished to the public unless such travel agent or intermediary actually operates such a facility. This section shall not apply if the purchaser of such rooms is an entity which is exempt from payment of such tax. This section is intended to clarify that taxes imposed as a hotel tax, occupancy tax, or otherwise, shall apply solely to amounts received by operators, as enacted in the statutes authorizing such taxes.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure the proper application of state sales and use taxes to sales for resale, the enactment of section 144.019 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 144.019 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 8, 2010

HB 1444 [SCS HB 1444]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires certain public governing bodies to hold a public meeting and to allow public comment four business days prior to voting on certain issues

AN ACT to amend chapter 67, RSMo, by adding thereto one new section relating to notice for certain public meetings.

SECTION

- A. Enacting clause.
67.2725. Notice required for public meeting on tax increases, eminent domain, creation of certain districts, and certain redevelopment plans.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.2725, to read as follows:

67.2725. NOTICE REQUIRED FOR PUBLIC MEETING ON TAX INCREASES, EMINENT DOMAIN, CREATION OF CERTAIN DISTRICTS, AND CERTAIN REDEVELOPMENT PLANS. — For any public meeting where a vote of the governing body is required to implement a tax increase, or with respect to a retail development project when the governing body votes

to utilize the power of eminent domain, create a transportation development district or a community improvement district, or approve a redevelopment plan that pledges public funds as financing for the project or plan, the governing body of any county, city, town, or village, or any entity created by such county, city, town, or village, shall give notice conforming with all the requirements of subsection 1 of section 610.020 at least four days before such entity may vote on such issues, exclusive of weekends and holidays when the facility is closed; provided that this section shall not apply to any votes or discussion related to proposed ordinances which require a minimum of two separate readings on different days for their passage. The provisions of subsection 4 of section 610.020 shall not apply to any matters that are subject to the provisions of this section. No vote shall occur until after a public meeting on the matter at which parties in interest and citizens shall have an opportunity to be heard. If the notice required under this section is not properly given, no vote on such issues shall be held until proper notice has been provided under this section. Any legal action challenging the notice requirements provided herein shall be filed within thirty days of the subject meeting, or such meeting shall be deemed to have been properly noticed and held. For the purpose of this section, a tax increase shall not include the setting of the annual tax rates provided for under sections 67.110 and 137.055.

Approved July 13, 2010

HB 1472 [HCS#2 HB 1472]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the designation of controlled substances

AN ACT to repeal sections 195.017 and 195.202, RSMo, and to enact in lieu thereof two new sections relating to the designation of controlled substances, with penalty provisions.

SECTION

A. Enacting clause.

195.017. Substances, how placed in schedules — list of scheduled substances — publication of schedules annually — electronic log of transactions to be maintained, when — certain products to be located behind pharmacy counter — exemption from requirements, when — rulemaking authority.

195.202. Possession or control of a controlled substance, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 195.017 and 195.202, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 195.017 and 195.202, to read as follows:

195.017. SUBSTANCES, HOW PLACED IN SCHEDULES — LIST OF SCHEDULED SUBSTANCES — PUBLICATION OF SCHEDULES ANNUALLY — ELECTRONIC LOG OF TRANSACTIONS TO BE MAINTAINED, WHEN — CERTAIN PRODUCTS TO BE LOCATED BEHIND PHARMACY COUNTER — EXEMPTION FROM REQUIREMENTS, WHEN — RULEMAKING AUTHORITY. — 1. The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

- (1) Has high potential for abuse; and
- (2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

-
- (1) The controlled substances listed in this subsection are included in Schedule I;
- (2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:
- (a) Acetyl-alpha-methylfentanyl;
 - (b) Acetylmethadol;
 - (c) Allylprodine;
 - (d) Alphacetylmethadol;
 - (e) Alphameprodine;
 - (f) Alphamethadol;
 - (g) Alpha-methylfentanyl;
 - (h) Alpha-methylthiofentanyl;
 - (i) Benzethidine;
 - (j) Betacetylmethadol;
 - (k) Beta-hydroxyfentanyl;
 - (l) Beta-hydroxy-3-methylfentanyl;
 - (m) Betameprodine;
 - (n) Betamethadol;
 - (o) Betaprodine;
 - (p) Clonitazene;
 - (q) Dextromoramide;
 - (r) Diampromide;
 - (s) Diethylthiambutene;
 - (t) Difenoxin;
 - (u) Dimenoxadol;
 - (v) Dimepheptanol;
 - (w) Dimethylthiambutene;
 - (x) Dioxaphetyl butyrate;
 - (y) Dipipanone;
 - (z) Ethylmethylthiambutene;
 - (aa) Etonitazene;
 - (bb) Etoxidine;
 - (cc) Furethidine;
 - (dd) Hydroxypethidine;
 - (ee) Ketobemidone;
 - (ff) Levomoramide;
 - (gg) Levophenacymorphan;
 - (hh) 3-Methylfentanyl;
 - (ii) 3-Methylthiofentanyl;
 - (jj) Morpheridine;
 - (kk) MPPP;
 - (ll) Noracymethadol;
 - (mm) Norlevorphanol;
 - (nn) Normethadone;
 - (oo) Norpipanone;
 - (pp) Para-fluorofentanyl;
 - (qq) PEPAP;
 - (rr) Phenadoxone;
 - (ss) Phenampromide;
 - (tt) Phenomorphan;
 - (uu) Phenoperidine;
 - (vv) Piritramide;
-

- (ww) Proheptazine;
- (xx) Properidine;
- (yy) Propiram;
- (zz) Racemoramide;
- (aaa) Thiofentanyl;
- (bbb) Tilidine;
- (ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Acetorphine;
- (b) Acetyldihydrocodeine;
- (c) Benzylmorphine;
- (d) Codeine methylbromide;
- (e) Codeine-N-Oxide;
- (f) Cyprenorphine;
- (g) Desomorphine;
- (h) Dihydromorphine;
- (i) Drotebanol;
- (j) Etorphine (except hydrochloride salt);
- (k) Heroin;
- (l) Hydromorphenol;
- (m) Methyldesorphine;
- (n) Methyldihydromorphine;
- (o) Morphine methylbromide;
- (p) Morphine methylsulfonate;
- (q) Morphine-N-Oxide;
- (r) Myorphine;
- (s) Nicocodeine;
- (t) Nicomorphine;
- (u) Normorphine;
- (v) Pholcodine;
- (w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) 4-bromo-2, 5-dimethoxyamphetamine;
 - (b) 4-bromo-2, 5-dimethoxyphenethylamine;
 - (c) 2,5-dimethoxyamphetamine;
 - (d) 2,5-dimethoxy-4-ethylamphetamine;
 - (e) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;
 - (f) 4-methoxyamphetamine;
 - (g) 5-methoxy-3,4-methylenedioxyamphetamine;
 - (h) 4-methyl-2, 5-dimethoxyamphetamine;
 - (i) 3,4-methylenedioxyamphetamine;
 - (j) 3,4-methylenedioxymethamphetamine;
 - (k) 3,4-methylenedioxy-N-ethylamphetamine;
 - (l) N-hydroxy-3, 4-methylenedioxyamphetamine;
 - (m) 3,4,5-trimethoxyamphetamine;
 - (n) **5-MeO-DMT or 5-methoxy-N,N-dimethyltryptamine, its isomers, salts, and salts of isomers;**
-

- (o) Alpha-ethyltryptamine;
- [(o)] (p) Alpha-methyltryptamine;
- [(p)] (q) Bufotenine;
- (r) **Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;**
- [(q)] (s) Diethyltryptamine;
- [(r)] (t) Dimethyltryptamine;
- [(s)] (u) 5-methoxy-N,N-diisopropyltryptamine;
- [(t)] (v) Ibogaine;
- (w) **Indole, or 1-butyl-3(1-naphthoyl)indole;**
- (x) **Indole, or 1-pentyl-3(1-naphthoyl)indole;**
- [(u)] (y) Lysergic acid diethylamide;
- [(v)] (z) Marijuana or marihuana;
- [(w)] (aa) Mescaline;
- [(x)] (bb) Parahexyl;
- [(y)] (cc) Peyote, to include all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;
- (dd) **Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, where side chain n=5, and homologues where side chain n=4,6, or 7;**
- [(z)] (ee) N-ethyl-3-piperidyl benzilate;
- [(aa)] (ff) N-methyl-3-piperidyl benzilate;
- [(bb)] (gg) Psilocybin;
- [(cc)] (hh) Psilocyn;
- [(dd)] (ii) Tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:
 - a. 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 - b. 6 cis or trans tetrahydrocannabinol, and their optical isomers;
 - c. 3,4 cis or trans tetrahydrocannabinol, and their optical isomers;
 - d. Any compounds of these structures, regardless of numerical designation of atomic positions covered;
- [(ee)] (jj) Ethylamine analog of phencyclidine;
- [(ff)] (kk) Pyrrolidine analog of phencyclidine;
- [(gg)] (ll) Thiophene analog of phencyclidine;
- [(hh)] (mm) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine;
- [(ii)] (nn) *Salvia divinorum*;
- [(jj)] (oo) Salvinorin A;
- (5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
 - (a) Gamma-hydroxybutyric acid;
 - (b) Mecloqualone;
 - (c) Methaqualone;
- (6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Aminorex;
- (b) N-benzylpiperazine;
- (c) Cathinone;
- (d) Fenethylamine;
- (e) Methcathinone;
- (f) (+,-)-cis-4-methylaminorex ((+,-)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazoline);
- (g) N-ethylamphetamine;
- (h) N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) N-(1-benzyl-4-piperidyl)-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;

(b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thienylfentanyl), its optical isomers, salts and salts of isomers;

(8) Khat, to include all parts of the plant presently classified botanically as *catha edulis*, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed or extracts.

3. The department of health and senior services shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

4. The controlled substances listed in this subsection are included in Schedule II:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, nalmeferene, naloxone and naltrexone, and their respective salts but including the following:

- a. Raw opium;
- b. Opium extracts;
- c. Opium fluid;
- d. Powdered opium;
- e. Granulated opium;
- f. Tincture of opium;
- g. Codeine;
- h. Ethylmorphine;
- i. Etorphine hydrochloride;
- j. Hydrocodone;
- k. Hydromorphone;
- l. Metopon;
- m. Morphine;
- n. Oxycodone;
- o. Oxymorphone;
- p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:

- (a) Alfentanil;
- (b) Alphaprodine;
- (c) Anileridine;
- (d) Bezitramide;
- (e) Bulk dextropropoxyphene;
- (f) Carfentanil;
- (g) [Butyl nitrite;
- (h)] Dihydrocodeine;
- [i)] **(h)** Diphenoxylate;
- [j)] **(i)** Fentanyl;
- [k)] **(j)** Isomethadone;
- [l)] **(k)** Levo-alphacetylmethadol;
- [m)] **(l)** Levomethorphan;
- [n)] **(m)** Levorphanol;
- [o)] **(n)** Metazocine;
- [p)] **(o)** Methadone;
- [q)] **(p)** Meperidine;
- [r)] **(q)** Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
- [s)] **(r)** Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane —
carboxylic acid;
- [t)] **(s)** Pethidine (meperidine);
- [u)] **(t)** Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- [v)] **(u)** Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- [w)] **(v)** Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- [x)] **(w)** Phenazocine;
- [y)] **(x)** Piminodine;
- [z)] **(y)** Racemethorphan;
- [aa)] **(z)** Racemorphan;
- [bb)] **(aa)** Remifentanil;
- [cc)] **(bb)** Sufentanil;
- (cc) Tapentadol;**

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (b) Lisdexamfetamine, its salts, isomers, and salts of its isomers;
- (c) Methamphetamine, its salts, isomers, and salts of its isomers;
- (d) Phenmetrazine and its salts;
- (e) Methylphenidate;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Amobarbital;

- (b) Glutethimide;
- (c) Pentobarbital;
- (d) Phencyclidine;
- (e) Secobarbital;
- (5) Any material or compound which contains any quantity of nabilone;
- (6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
 - (a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;
 - (b) Immediate precursors to phencyclidine (PCP):
 - a. 1-phenylcyclohexylamine;
 - b. 1-piperidinocyclohexanecarbonitrile (PCC)[.];
- (7) Any material, compound, mixture, or preparation which contains any quantity of the following alkyl nitrites:**
 - (a) Amyl nitrite;**
 - (b) Butyl nitrite.**
- 5. The department of health and senior services shall place a substance in Schedule III if it finds that:
 - (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
 - (2) The substance has currently accepted medical use in treatment in the United States; and
 - (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.
- 6. The controlled substances listed in this subsection are included in Schedule III:
 - (1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
 - (a) Benzphetamine;
 - (b) Chlorphentermine;
 - (c) Clortermine;
 - (d) Phendimetrazine;
 - (2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:
 - (a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:
 - a. Amobarbital;
 - b. Secobarbital;
 - c. Pentobarbital;
 - (b) Any suppository dosage form containing any quantity or salt of the following:
 - a. Amobarbital;
 - b. Secobarbital;
 - c. Pentobarbital;
 - (c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;
 - (d) Chlorhexadol;
 - (e) Embutramide;
 - (f) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the federal Food, Drug, and Cosmetic Act;
 - (g) Ketamine, its salts, isomers, and salts of isomers;
 - (h) Lysergic acid;
 - (i) Lysergic acid amide;
 - (j) Methypylon;
 - (k) Sulfondiethylmethane;

- (l) Sulfonethylmethane;
- (m) Sulfonmethane;
- (n) Tiletamine and zolazepam or any salt thereof;
- (3) Nalorphine;
- (4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:
 - (a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
 - (b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
 - (c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
 - (d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
 - (g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (5) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth in subdivision (6) of this subsection; buprenorphine;
- (6) Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, esters and ethers:
 - (a) 3 β ,17-dihydroxy-5 α -androstane;
 - (b) 3 α ,17 β -dihydroxy-5 α -androstane;
 - (c) 5 α -androstan-3,17-dione;
 - (d) 1-androstenediol (3 β ,17 β -dihydroxy-5 α -androst-1-ene);
 - (e) 1-androstenediol (3 α ,17 β -dihydroxy-5 α -androst-1-ene);
 - (f) 4-androstenediol (3 β ,17 β -dihydroxy-androst-4-ene);
 - (g) 5-androstenediol (3 β ,17 β -dihydroxy-androst-5-ene);
 - (h) 1-androstenedione ([5 α]-androst-1-en-3,17-dione);
 - (i) 4-androstenedione (androst-4-en-3,17-dione);
 - (j) 5-androstenedione (androst-5-en-3,17-dione);

- (k) Bolasterone (7 α , 17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
 (l) Boldenone (17 β -hydroxyandrost-1,4,-diene-3-one);
(m) Boldione;
 [(m)] (n) Calusterone (7 β , 17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
 [(n)] (o) Clostebol (4-chloro-17 β -hydroxyandrost-4-en-3-one);
 [(o)] (p) Dehydrochloromethyltestosterone (4-chloro-17 β -hydroxy-17 α -methyl-androst-1,4-dien-3-one);
(q) Dexoxymethyltestosterone;
 [(p)] (r) Δ 1-dihydrotestosterone (a.k.a. '1-testosterone')(17 β -hydroxy-5 α -androst-1-en-3-one);
 [(q)] (s) 4-dihydrotestosterone (17 β -hydroxy-androstan-3-one);
 [(r)] (t) Drostanolone (17 β -hydroxy-2 α -methyl-5 α -androstan-3-one);
 [(s)] (u) Ethylestrenol (17 α -ethyl-17 β -hydroxyestr-4-ene);
 [(t)] (v) Fluoxymesterone (9-fluoro-17 α -methyl-11 β ,17 β -dihydroxyandrost-4-en-3-one);
 [(u)] (w) Formebolone (2-formyl-17 α -methyl-11 α ,17 β -dihydroxyandrost-1,4-dien-3-one);
 [(v)] (x) Furazabol (17 α -methyl-17 β -hydroxyandrostano[2,3-c]-furazan);
 [(w)] (y) 13 β -ethyl-17 β -hydroxygon-4-en-3-one;
 [(x)] (z) 4-hydroxytestosterone (4,17 β -dihydroxy-androst-4-en-3-one);
 [(y)] (aa) 4-hydroxy-19-nortestosterone (4,17 β -dihydroxy-estr-4-en-3-one);
 [(z)] (bb) Mestanolone (17 α -methyl-17 β -hydroxy-5-androstan-3-one);
 [(aa)] (cc) Mesterolone (1 α -methyl-17 β -hydroxy-[5 α]-androstan-3-one);
 [(bb)] (dd) Methandienone (17 α -methyl-17 β -hydroxyandrost-1,4-dien-3-one);
 [(cc)] (ee) Methandriol (17 α -methyl-3 β ,17 β -dihydroxyandrost-5-ene);
 [(dd)] (ff) Methenolone (1-methyl-17 β -hydroxy-5 α -androst-1-en-3-one);
 [(ee)] (gg) 17 α -methyl-3 β ,17 β -dihydroxy-5 α -androstane);
 [(ff)] (hh) 17 α -methyl-3 α ,17 β -dihydroxy-5 α -androstane);
 [(gg)] (ii) 17 α -methyl-3 β ,17 β -dihydroxyandrost-4-ene;
 [(hh)] (jj) 17 α -methyl-4-hydroxynandrolone (17 α -methyl-4-hydroxy-17 β -hydroxyestr-4-en-3-one);
 [(ii)] (kk) Methyldienolone (17 α -methyl-17 β -hydroxyestra-4,9(10)-dien-3-one);
 [(jj)] (ll) Methyltrienolone (17 α -methyl-17 β -hydroxyestra-4,9-11-trien-3-one);
 [(kk)] (mm) Methyltestosterone (17 α -methyl-17 β -hydroxyandrost-4-en-3-one);
 [(ll)] (nn) Mibolerone (7 α ,17 α -dimethyl-17 β -hydroxyestr-4-en-3-one);
 [(mm)] (oo) 17 α -methyl- Δ 1-dihydrotestosterone (17 β -hydroxy-17 α -methyl-5 α -androst-1-en-3-one) (a.k.a. '17- α -methyl-1-testosterone');
 [(nn)] (pp) Nandrolone (17 β -hydroxyestr-4-ene-3-one);
 [(oo)] (qq) 19-nor-4-androstenediol (3 β ,17 β -dihydroxyestr-4-ene);
 [(pp)] (rr) 19-nor-4-androstenediol (3 α ,17 β -dihydroxyestr-4-ene);
(ss) 19-nor-4,9(10)-androstadienedione;
 [(qq)] (tt) 19-nor-5-androstenediol (3 β ,17 β -dihydroxyestr-5-ene);
 [(rr)] (uu) 19-nor-5-androstenediol (3 α ,17 β -dihydroxyestr-5-ene);
 [(ss)] (vv) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
 [(tt)] (ww) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
 [(uu)] (xx) Norbolethone (13 β ,17 α -diethyl-17 β -hydroxygon-4-en-3-one);
 [(vv)] (yy) Norclostebol (4-chloro-17 β -hydroxyestr-4-en-3-one);
 [(ww)] (zz) Norethandrolone (17 α -ethyl-17 β -hydroxyestr-4-en-3-one);
 [(xx)] (aaa) Normethandrolone (17 α -methyl-17 β -hydroxyestr-4-en-3-one);
 [(yy)] (bbb) Oxandrolone (17 α -methyl-17 β -hydroxy-2-oxa-[5 α]-androstan-3-one);
 [(zz)] (ccc) Oxymesterone (17 α -methyl-4,17 β -dihydroxyandrost-4-en-3-one);
 [(aaa)] (ddd) Oxymethalone (17 α -methyl-2-hydroxymethylene-17 β -hydroxy-[5 α]-androstan-3-one);
 [(bbb)] (eee) Stanozolol (17 α -methyl-17 β -hydroxy-[5 α]-androst-2-eno[3,2-c]-pyrazole);

[(ccc)] **(fff)** Stenbolone (17 β -hydroxy-2-methyl-[5 α]-androst-1-en-3-one);
[(ddd)] **(ggg)** Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

[(eee)] **(hhh)** Testosterone (17 β -hydroxyandrost-4-en-3-one);
[(fff)] **(iii)** Tetrahydrogestrinone (13 β ,17 α -diethyl-17 β -hydroxygon-4,9,11-trien-3-one);
[(ggg)] **(jjj)** Trenbolone (17 β -hydroxyestr-4,9,11-trien-3-one);
[(hhh)] **(kkk)** Any salt, ester, or ether of a drug or substance described or listed in this subdivision, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration;

(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;

(8) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

- (1) The substance has a low potential for abuse relative to substances in Schedule III;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Alprazolam;
- (b) Barbitol;
- (c) Bromazepam;
- (d) Camazepam;
- (e) Chloral betaine;
- (f) Chloral hydrate;

- (g) Chlordiazepoxide;
- (h) Clobazam;
- (i) Clonazepam;
- (j) Clorazepate;
- (k) Clotiazepam;
- (l) Cloxazolam;
- (m) Delorazepam;
- (n) Diazepam;
- (o) Dichloralphenazone;
- (p) Estazolam;
- (q) Ethchlorvynol;
- (r) Ethinamate;
- (s) Ethyl loflazepate;
- (t) Fludiazepam;
- (u) Flunitrazepam;
- (v) Flurazepam;
- (w) Fospropofol;**
- [(w)] **(x)** Halazepam;
- [(x)] **(y)** Haloxazolam;
- [(y)] **(z)** Ketazolam;
- [(z)] **(aa)** Loprazolam;
- [(aa)] **(bb)** Lorazepam;
- [(bb)] **(cc)** Lormetazepam;
- [(cc)] **(dd)** Mebutamate;
- [(dd)] **(ee)** Medazepam;
- [(ee)] **(ff)** Meprobamate;
- [(ff)] **(gg)** Methohexital;
- [(gg)] **(hh)** Methylphenobarbital (mephobarbital);
- [(hh)] **(ii)** Midazolam;
- [(ii)] **(jj)** Nimetazepam;
- [(jj)] **(kk)** Nitrazepam;
- [(kk)] **(ll)** Nordiazepam;
- [(ll)] **(mm)** Oxazepam;
- [(mm)] **(nn)** Oxazolam;
- [(nn)] **(oo)** Paraldehyde;
- [(oo)] **(pp)** Petrichloral;
- [(pp)] **(qq)** Phenobarbital;
- [(qq)] **(rr)** Pinazepam;
- [(rr)] **(ss)** Prazepam;
- [(ss)] **(tt)** Quazepam;
- [(tt)] **(uu)** Temazepam;
- [(uu)] **(vv)** Tetrazepam;
- [(vv)] **(ww)** Triazolam;
- [(ww)] **(xx)** Zaleplon;
- [(xx)] **(yy)** Zolpidem;
- [(yy)] **(zz)** Zopiclone;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Cathine ((+)-norpseudoephedrine);
- (b) Diethylpropion;
- (c) Fencamfamin;
- (d) Fenproporex;
- (e) Mazindol;
- (f) Mefenorex;
- (g) Modafinil;
- (h) Pemoline, including organometallic complexes and chelates thereof;
- (i) Phentermine;
- (j) Pipradrol;
- (k) Sibutramine;
- (l) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts:

- (a) butorphanol;
- (b) pentazocine;

(6) Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(2) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone;

(3) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound,

mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers;

(4) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts: [pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]]

(a) Lacosamide;

(b) Pregabalin.

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall be at least eighteen years of age; and

(3) The pharmacist, intern pharmacist, or registered pharmacy technician shall require any person, prior to their purchasing, receiving or otherwise acquiring such compound, mixture, or preparation to furnish suitable photo identification that is issued by a state or the federal government or a document that, with respect to identification, is considered acceptable and showing the date of birth of the person;

(4) The seller shall deliver the product directly into the custody of the purchaser.

12. Pharmacists, intern pharmacists, and registered pharmacy technicians shall implement and maintain an electronic log of each transaction. Such log shall include the following information:

(1) The name, address, and signature of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

(3) The date and time of each purchase; and

(4) The name or initials of the pharmacist, intern pharmacist, or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.

13. Each pharmacy shall submit information regarding sales of any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section in accordance with transmission methods and frequency established by the department by regulation;

14. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.

15. All persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

16. Any person who knowingly or recklessly violates the provisions of subsections 11 to 15 of this section is guilty of a class A misdemeanor.

17. The scheduling of substances specified in subdivision (3) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form or to any compound, mixture, or preparation specified in subdivision (3) of subsection 10 of this section which must be dispensed, sold, or distributed in a pharmacy pursuant to a prescription.

18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other

controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

19. The department of health and senior services shall revise and republish the schedules annually.

20. The department of health and senior services shall promulgate rules under chapter 536, RSMo, regarding the security and storage of Schedule V controlled substances, as described in subdivision (3) of subsection 10 of this section, for distributors as registered by the department of health and senior services.

21. Logs of transactions required to be kept and maintained by this section and section 195.417 shall create a rebuttable presumption that the person whose name appears in the logs is the person whose transactions are recorded in the logs.

195.202. POSSESSION OR CONTROL OF A CONTROLLED SUBSTANCE, PENALTY. — 1. Except as authorized by sections 195.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.

2. Any person who violates this section with respect to any controlled substance except thirty-five grams or less of marijuana, **Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n-4,6, or 7** is guilty of a class C felony.

3. Any person who violates this section with respect to not more than thirty-five grams of marijuana, **Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n-4,6, or 7** is guilty of a class A misdemeanor.

Approved July 6, 2010

HB 1498 [HCS HB 1498]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the payment of health insurance claims

AN ACT to repeal section 376.383, RSMo, and to enact in lieu thereof one new section relating to the payment of health insurance claims, with an effective date.

SECTION

A. Enacting clause.

376.383. Health care claims for reimbursement, how paid, when — definitions — clean claims, procedure — unpaid claims, procedure — fraudulent claims, notification to the department, procedure — requests for additional information, contents.

B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 376.383, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.383, to read as follows:

376.383. HEALTH CARE CLAIMS FOR REIMBURSEMENT, HOW PAID, WHEN — DEFINITIONS — CLEAN CLAIMS, PROCEDURE — UNPAID CLAIMS, PROCEDURE — FRAUDULENT CLAIMS, NOTIFICATION TO THE DEPARTMENT, PROCEDURE — REQUESTS FOR ADDITIONAL INFORMATION, CONTENTS. — 1. For purposes of this section and section 376.384, the following terms shall mean:

(1) "Claimant", any individual, corporation, association, partnership or other legal entity asserting a right to payment arising out of a contract or a contingency or loss covered under a health benefit plan as defined in section 376.1350;

(2) "Clean claim", a claim that has no defect, impropriety, lack of any required substantiating documentation, or particular circumstance requiring special treatment that prevents timely payment;

(3) "Deny" or "denial", when the health carrier refuses to reimburse all or part of the claim;

[(3)] (4) "Health carrier", health carrier as defined in section 376.1350[,] **and any self-insured health plan, to the extent allowed by federal law;** except that health carrier shall not include a workers' compensation carrier providing benefits to an employee pursuant to chapter 287, RSMo. **For the purposes of this section and section 376.384, third-party contractors are health carriers;**

[(4)] (5) "Health care provider", health care provider as defined in section 376.1350;

[(5)] (6) "Health care services", health care services as defined in section 376.1350;

[(6)] (7) "Processing days", number of days the health carrier **or any of its agents, subsidiaries, contractors, subcontractors, or third-party contractors** has the claim in its possession. Processing days shall not include days in which the health carrier is waiting for a response to a request for additional information **from the claimant;**

[(7)] (8) "Request for additional information", [when the health carrier requests information from the claimant to determine if all or part of the claim will be reimbursed] **a health carrier's electronic or facsimile request for additional information from the claimant specifying all of the documentation or information necessary to process all of the claim, or all of the claim on a multi-claim form, as a clean claim for payment;**

[(8) "Suspends the claim", giving notice to the claimant specifying the reason the claim is not yet paid, including but not limited to grounds as listed in the contract between the claimant and the health carrier; and]

(9) "Third-party contractor", a third party contracted with the health carrier to receive or process claims for reimbursement of health care services.

2. **Within forty-eight hours after receipt of an electronically filed claim by a health carrier or a third-party contractor, a health carrier shall send an electronic acknowledgment of the date of receipt.**

3. Within [ten working] **thirty processing** days after receipt of a **filed** claim by a health carrier or a third-party contractor, a health carrier shall:

(1) Send an acknowledgment of the date of receipt; or

(2) **send an electronic or facsimile notice of the status of the claim that [includes] notifies the claimant:**

(1) **Whether the claim is a clean claim as defined under this section; or**

(2) **The claim requires additional information from the claimant.**

If the claim is a clean claim, then the health carrier shall pay or deny the claim. If the claim requires additional information, the health carrier shall include in the notice a request for additional information. If a health carrier pays the claim, [subdivisions (1) and (2)] this subsection shall not apply.

[3.] **4.** Within [fifteen] **ten processing** days after receipt of additional information by a health carrier or a third-party contractor, a health carrier shall pay the claim or any undisputed part of the claim in accordance with this section or send [a] **an electronic or facsimile** notice of receipt and status of the claim:

- (1) That denies all or part of the claim and specifies each reason for denial; or
- (2) That makes a final request for additional information.

[4.] **5.** Within [fifteen] **five processing** days after the day on which the health carrier or a third-party contractor receives the additional requested information in response to a final request for information, it shall pay the claim or any undisputed part of the claim or deny [or suspend] the claim.

[5.] **6.** If the health carrier has not paid the claimant on or before the forty-fifth **processing** day from the date of receipt of the claim, the health carrier shall pay the claimant one percent interest per month **and a penalty in an amount equal to one percent of the claim per day.** The interest **and penalty** shall be calculated based upon the unpaid balance of the claim **as of the forty-fifth processing day.** The interest **and penalty** paid pursuant to this subsection shall be included in any late reimbursement without the necessity for the person that filed the original claim to make an additional claim for that interest **and penalty.** A health carrier may combine interest payments and make payment once the aggregate amount reaches [five] **one hundred** dollars. **Any claim which has been properly denied before the forty-fifth processing day under this section and section 376.384 shall not be subject to interest or penalties. Such interest and penalties shall cease to accrue on the day after a petition is filed in a court of competent jurisdiction to recover payment of such claim. Upon a finding by a court of competent jurisdiction that the health carrier failed to pay a claim, interest, or penalty without good cause, the court shall enter judgment for reasonable attorney fees for services necessary for recovery. Upon a finding that a health care provider filed suit without reasonable grounds to recover a claim, the court shall award the health carrier reasonable attorney fees necessary to the defense.**

[6. If a health carrier fails to pay, deny or suspend the claim within forty processing days, and has received, on or after the fortieth day, notice from the health care provider that such claim has not been paid, denied or suspended, the health carrier shall, in addition to monthly interest due, pay to the claimant per day an amount of fifty percent of the claim but not to exceed twenty dollars for failure to pay all or part of a claim or interest due thereon or deny or suspend as required by this section. Such penalty shall not accrue for more than thirty days unless the claimant provides a second written or electronic notice on or after the thirty days to the health carrier that the claim remains unpaid and that penalties are claimed to be due pursuant to this section. Penalties shall cease if the health carrier pays, denies or suspends the claim. Said penalty shall also cease to accrue on the day after a petition is filed in a court of competent jurisdiction to recover payment of said claim. Upon a finding by a court of competent jurisdiction that the health carrier failed to pay a claim, interest or penalty without reasonable cause, the court shall enter judgment for reasonable attorney fees for services necessary for recovery. Upon a finding that a provider filed suit without reasonable grounds to recover a claim, the court shall award the health carrier reasonable attorney fees necessary to the defense.]

7. The department of insurance, financial institutions and professional registration shall monitor [suspensions] **denials** and determine whether the health carrier acted reasonably.

8. If a health carrier or third-party contractor has reasonable grounds to believe that a fraudulent claim is being made, the health carrier or third-party contractor shall notify the department of insurance, financial institutions and professional registration of the fraudulent claim pursuant to sections 375.991 to 375.994, RSMo.

9. Denial of a claim shall be communicated to the claimant and shall include the specific reason why the claim was denied. **Any claim for which the health carrier has not communicated a specific reason for the denial shall not be considered denied under this section or section 376.384.**

10. Requests for additional information shall specify [what] **all of the documentation and additional information that** is necessary to process **all of the claim, or all of the claims on a multi-claim form, as a clean claim** for payment. Information requested shall be reasonable and pertain **solely** to the health carrier's [determination of] liability. The health carrier shall acknowledge receipt of the requested additional information to the claimant within five [working] **calendar** days or pay the claim.

SECTION B. EFFECTIVE DATE. — Section A of this act shall become effective January 1, 2011.

Approved April 27, 2010

HRB 1516 [SCS HCS Revision HB 1516]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Repeals various expired provisions of law as contained in the January 2010 Annual Report of the Joint Committee on Legislative Research on Laws Which Expire, Sunset, Terminate, or Become Ineffective

AN ACT to repeal sections 21.840, 57.080, 57.130, 71.970, 99.799, 143.171, 165.016, 165.018, 174.020, 192.632, 197.305, 197.318, 197.366, 208.344, 208.978, 211.013, 217.860, 307.367, 329.028, 374.208, 376.990, and 620.515, RSMo, and to enact in lieu thereof eight new sections for the sole purpose of repealing expired, sunset, terminated, or ineffective provisions of law.

SECTION

- A. Enacting clause.
 - 57.080. Vacancy in office, how filled — private person may execute process, when.
 - 143.171. Federal income tax deduction, amount, corporate and individual taxpayers.
 - 174.020. Names of state colleges and universities.
 - 197.305. Definitions.
 - 197.318. Licensed and available, defined — review of letters of intent — application of law in pending court cases — expansion procedures.
 - 197.366. Health care facilities defined.
 - 329.028. Board of cosmetology and barber examiners fund created, use of moneys.
 - 620.515. Hero at home program established to assist members of the national guard and their families.
 - 21.840. Joint committee established, members, appointment, terms, duties, meetings — report required — expiration date.
 - 57.130. Penalties and forfeitures, collection of — expiration date.
 - 71.970. Cable television facilities, municipalities may own and operate, requirements — public service commission to study economic impact — expiration date.
 - 99.799. Joint committee on tax policy to conduct study.
 - 165.016. Amount to be spent on tuition, retirement and compensation — base school year certificated salary percentage — exemption and revision — penalty — exceptions — termination date.
 - 165.018. One-time transfer from incidental fund to capital projects fund permitted, amount, qualifications — termination date.
 - 192.632. Task force created, members, duties.
 - 208.344. Welfare reform, progress report to be submitted annually by division, content — expiration.
 - 208.978. Report on fund — recommendations — expiration date.
 - 211.013. Definition of child, state courts administrator to conduct a study and issue a report, when.
 - 217.860. Task force created, duties, members, meetings — expiration date.
 - 307.367. Transfer of moneys to the Missouri air emission reduction fund, when, use of moneys, exemption from transfer, Missouri air pollution control fund abolished, when.
 - 374.208. Study on insurance markets — expiration date.
 - 376.990. Study to be conducted on financing of the state health insurance pool, contents, report.
-

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 21.840, 57.080, 57.130, 71.970, 99.799, 143.171, 165.016, 165.018, 174.020, 192.632, 197.305, 197.318, 197.366, 208.344, 208.978, 211.013, 217.860, 307.367, 329.028, 374.208, 376.990, and 620.515, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 57.080, 143.171, 174.020, 197.305, 197.318, 197.366, 329.028, and 620.515, to read as follows:

57.080. VACANCY IN OFFICE, HOW FILLED — PRIVATE PERSON MAY EXECUTE PROCESS, WHEN. — [1.] Whenever from any cause the office of sheriff becomes vacant, the same shall be filled by the county commission; if such vacancy happens more than nine months prior to the time of holding a general election, such county commission shall immediately order a special election to fill the same, and the person by it appointed shall hold said office until the person chosen at such election shall be duly qualified; otherwise the person appointed by such county commission shall hold office until the person chosen at such general election shall be duly qualified; but while such vacancy continues, any writ or process directed to the said sheriff and in such sheriff's hands at the time such vacancy occurs, remaining unexecuted, and any writ or process issued after such vacancy, may be served by any person selected by the plaintiff, the plaintiff's agent or attorney, at the risk of such plaintiff; and the clerk of any court out of which such writ or process shall issue shall endorse on such writ or process the authority to such person to execute and return the same, and shall state on such endorsement that the authority thus given is "at the request and risk of the plaintiff", and the person so named in said writ or process may proceed to execute and return said process, as sheriffs are by the law required to do. Such election shall be held on or before the tenth Tuesday after the vacancy occurs. Upon the occurrence of such vacancy, it shall be the duty of the presiding commissioner of the county commission, if such commission be not then in session, to call a special term thereof, and cause said election to be held.

[2.] Notwithstanding the provisions of this section to the contrary, if a vacancy occurs in the office of the sheriff in any county of the first classification with more than seventy-one thousand three hundred but fewer than seventy-one thousand four hundred inhabitants, the election to fill such vacancy shall be held on the general municipal election day as provided for in section 115.121, RSMo. The provisions of this subsection shall expire on June 1, 2005.]

EXPLANATION: Subsection 2 of this section expired 06-01-05.

143.171. FEDERAL INCOME TAX DEDUCTION, AMOUNT, CORPORATE AND INDIVIDUAL TAXPAYERS. — 1. [For all tax years beginning before January 1, 1994, for an individual taxpayer and for all tax years beginning before September 1, 1993, for a corporate taxpayer, the taxpayer shall be allowed a deduction for his federal income tax liability under chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels, and lubricating oils).

2.] For all tax years beginning on or after January 1, 1994, an individual taxpayer shall be allowed a deduction for his federal income tax liability under chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed, not to exceed five thousand dollars on a single taxpayer's return or ten thousand dollars on a combined return, after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels, and lubricating oils).

[3.] 2. For all tax years beginning on or after September 1, 1993, a corporate taxpayer shall be allowed a deduction for fifty percent of its federal income tax liability under chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels and lubricating oils).

[4.] 3. If a federal income tax liability for a tax year prior to the applicability of sections 143.011 to 143.996 for which he was not previously entitled to a Missouri deduction is later paid or accrued, he may deduct the federal tax in the later year to the extent it would have been deductible if paid or accrued in the prior year.

EXPLANATION: Subsection 1 of this section applies only to tax years prior to 1994.

174.020. NAMES OF STATE COLLEGES AND UNIVERSITIES. — 1. Except as provided in subsection 5 of this section, state institutions of higher education governed by sections 174.020 to 174.500 shall be named and known as follows: the institution at Warrensburg, Johnson County, shall hereafter be known as the "Central Missouri State University"; the institution at Cape Girardeau, Cape Girardeau County, shall hereafter be known as the "Southeast Missouri State University"; the institution at Springfield, Greene County, shall hereafter be known as the "Missouri State University"; the institution at Maryville, Nodaway County, shall hereafter be known as the "Northwest Missouri State University"; the institution at St. Joseph, Buchanan County, shall hereafter be known as the "Missouri Western State University"; the institution at Joplin, Jasper County, shall hereafter be known as the "Missouri Southern State University"; and the college in the city of St. Louis shall be known as "Harris-Stowe State University".

2. References in the statutes in this state to such institutions whether denominated colleges or universities in such statutes or whether said institutions are renamed in subsection 1 of this section shall continue to apply to the applicable institution.

3. Any costs incurred with respect to modifications of the names of the state colleges and universities specified in subsection 1 of this section shall not be paid from state funds.

4. When the conditions set forth in section 178.631, RSMo, are met, the technical college located in Osage County, commonly known as the East Campus of Linn Technical College, shall be known as "Linn State Technical College".

[5. The board of governors of the institution at Warrensburg, Johnson County, may alter the name of such institution to "The University of Central Missouri" upon the approval of at least four voting members of the board. Upon such a vote, the board shall provide written notice to the revisor of statutes affirming that the board has approved the alteration. From the date the revisor receives the notice, the institution at Warrensburg, Johnson County, shall be named and known as "The University of Central Missouri". The provisions of this subsection shall expire on August 28, 2007.]

EXPLANATION: Subsection 5 of this section expired on August 28, 2007.

197.305. DEFINITIONS. — As used in sections 197.300 to 197.366, the following terms mean:

(1) "Affected persons", the person proposing the development of a new institutional health service, the public to be served, and health care facilities within the service area in which the proposed new health care service is to be developed;

(2) "Agency", the certificate of need program of the Missouri department of health and senior services;

(3) "Capital expenditure", an expenditure by or on behalf of a health care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance;

(4) "Certificate of need", a written certificate issued by the committee setting forth the committee's affirmative finding that a proposed project sufficiently satisfies the criteria prescribed for such projects by sections 197.300 to 197.366;

(5) "Develop", to undertake those activities which on their completion will result in the offering of a new institutional health service or the incurring of a financial obligation in relation to the offering of such a service;

(6) "Expenditure minimum" shall mean:

(a) For beds in existing or proposed health care facilities licensed pursuant to chapter 198, RSMo, and long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo, six hundred thousand dollars in the case of capital expenditures, or four hundred thousand dollars in the case of major medical equipment, provided, however, that prior to January 1, 2003, the expenditure minimum for beds in such a facility and long-term care beds in a hospital described in section 198.012, RSMo, shall be zero, subject to the provisions of subsection 7 of section 197.318;

(b) For beds or equipment in a long-term care hospital meeting the requirements described in 42 CFR, Section 412.23(e), the expenditure minimum shall be zero; and

(c) For health care facilities, new institutional health services or beds not described in paragraph (a) or (b) of this subdivision one million dollars in the case of capital expenditures, excluding major medical equipment, and one million dollars in the case of medical equipment;

(7) ["Health care facilities", hospitals, health maintenance organizations, tuberculosis hospitals, psychiatric hospitals, intermediate care facilities, skilled nursing facilities, residential care facilities and assisted living facilities, kidney disease treatment centers, including freestanding hemodialysis units, diagnostic imaging centers, radiation therapy centers and ambulatory surgical facilities, but excluding the private offices of physicians, dentists and other practitioners of the healing arts, and Christian Science sanatoriums, also known as Christian Science Nursing facilities listed and certified by the Commission for Accreditation of Christian Science Nursing Organization/Facilities, Inc., and facilities of not-for-profit corporations in existence on October 1, 1980, subject either to the provisions and regulations of Section 302 of the Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401-538, and any residential care facility or assisted living facility operated by a religious organization qualified pursuant to Section 501(c)(3) of the federal Internal Revenue Code, as amended, which does not require the expenditure of public funds for purchase or operation, with a total licensed bed capacity of one hundred beds or fewer;

(8)] "Health service area", a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources, consisting of a population of not less than five hundred thousand or more than three million;

[(9)] (8) "Major medical equipment", medical equipment used for the provision of medical and other health services;

[(10)] (9) "New institutional health service":

(a) The development of a new health care facility costing in excess of the applicable expenditure minimum;

(b) The acquisition, including acquisition by lease, of any health care facility, or major medical equipment costing in excess of the expenditure minimum;

(c) Any capital expenditure by or on behalf of a health care facility in excess of the expenditure minimum;

(d) Predevelopment activities as defined in subdivision (13) hereof costing in excess of one hundred fifty thousand dollars;

(e) Any change in licensed bed capacity of a health care facility which increases the total number of beds by more than ten or more than ten percent of total bed capacity, whichever is less, over a two-year period;

(f) Health services, excluding home health services, which are offered in a health care facility and which were not offered on a regular basis in such health care facility within the twelve-month period prior to the time such services would be offered;

(g) A reallocation by an existing health care facility of licensed beds among major types of service or reallocation of licensed beds from one physical facility or site to another by more than ten beds or more than ten percent of total licensed bed capacity, whichever is less, over a two-year period;

~~[(11)]~~ (10) "Nonsubstantive projects", projects which do not involve the addition, replacement, modernization or conversion of beds or the provision of a new health service but which include a capital expenditure which exceeds the expenditure minimum and are due to an act of God or a normal consequence of maintaining health care services, facility or equipment;

~~[(12)]~~ (11) "Person", any individual, trust, estate, partnership, corporation, including associations and joint stock companies, state or political subdivision or instrumentality thereof, including a municipal corporation;

~~[(13)]~~ (12) "Predevelopment activities", expenditures for architectural designs, plans, working drawings and specifications, and any arrangement or commitment made for financing; but excluding submission of an application for a certificate of need.

EXPLANATION: The definition in subdivision (7) of this section is superseded by the definition of "health care facilities" in section 197.366 which became applicable after 12-31-01.

197.318. LICENSED AND AVAILABLE, DEFINED — REVIEW OF LETTERS OF INTENT — APPLICATION OF LAW IN PENDING COURT CASES — EXPANSION PROCEDURES. — 1. The provisions of section 197.317 shall not apply to a residential care facility, assisted living facility, intermediate care facility or skilled nursing facility only where the department of social services has first determined that there presently exists a need for additional beds of that classification because the average occupancy of all licensed and available residential care facility, assisted living facility, intermediate care facility and skilled nursing facility beds exceeds ninety percent for at least four consecutive calendar quarters, in a particular county, and within a fifteen-mile radius of the proposed facility, and the facility otherwise appears to qualify for a certificate of need. The department's certification that there is no need for additional beds shall serve as the final determination and decision of the committee. In determining ninety percent occupancy, residential care facility and assisted living facility shall be one separate classification and intermediate care and skilled nursing facilities are another separate classification.

2. The Missouri health facilities review committee may, for any facility certified to it by the department, consider the predominant ethnic or religious composition of the residents to be served by that facility in considering whether to grant a certificate of need.

3. [There shall be no expenditure minimum for facilities, beds, or services referred to in subdivisions (1), (2) and (3) of section 197.317. The provisions of this subsection shall expire January 1, 2003.

4.] As used in this section, the term "licensed and available" means beds which are actually in place and for which a license has been issued.

[5.] 4. The provisions of section 197.317 shall not apply to any facility where at least ninety-five percent of the patients require diets meeting the dietary standards defined by section 196.165, RSMo.

[6.] 5. The committee shall review all letters of intent and applications for long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e) under its criteria and standards for long-term care beds.

[7.] 6. Sections 197.300 to 197.366 shall not be construed to apply to litigation pending in state court on or before April 1, 1996, in which the Missouri health facilities review committee is a defendant in an action concerning the application of sections 197.300 to 197.366 to long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e).

[8.] 7. Notwithstanding any other provision of this chapter to the contrary:

(1) A facility licensed pursuant to chapter 198, RSMo, may increase its licensed bed capacity by:

(a) Submitting a letter of intent to expand to the division of aging and the health facilities review committee;

(b) Certification from the division of aging that the facility:

a. Has no patient care class I deficiencies within the last eighteen months; and

b. Has maintained a ninety-percent average occupancy rate for the previous six quarters;

(c) Has made an effort to purchase beds for eighteen months following the date the letter of intent to expand is submitted pursuant to paragraph (a) of this subdivision. For purposes of this paragraph, an "effort to purchase" means a copy certified by the offeror as an offer to purchase beds from another licensed facility in the same licensure category; and

(d) If an agreement is reached by the selling and purchasing entities, the health facilities review committee shall issue a certificate of need for the expansion of the purchaser facility upon surrender of the seller's license; or

(e) If no agreement is reached by the selling and purchasing entities, the health facilities review committee shall permit an expansion for:

a. A facility with more than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or thirty beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-three percent or greater over the previous six quarters;

b. A facility with fewer than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or ten beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-two percent or greater over the previous six quarters;

c. A facility adding beds pursuant to subparagraphs a. or b. of this paragraph shall not expand by more than fifty percent of its then licensed bed capacity in the qualifying licensure category;

(2) Any beds sold shall, for five years from the date of relicensure by the purchaser, remain unlicensed and unused for any long-term care service in the selling facility, whether they do or do not require a license;

(3) The beds purchased shall, for two years from the date of purchase, remain in the bed inventory attributed to the selling facility and be considered by the department of social services as licensed and available for purposes of this section;

(4) Any residential care facility licensed pursuant to chapter 198, RSMo, may relocate any portion of such facility's current licensed beds to any other facility to be licensed within the same licensure category if both facilities are under the same licensure ownership or control, and are located within six miles of each other;

(5) A facility licensed pursuant to chapter 198, RSMo, may transfer or sell individual long-term care licensed beds to facilities qualifying pursuant to paragraphs (a) and (b) of subdivision (1) of this subsection. Any facility which transfers or sells licensed beds shall not expand its licensed bed capacity in that licensure category for a period of five years from the date the licensure is relinquished.

[9.] 8. Any existing licensed and operating health care facility offering long-term care services may replace one-half of its licensed beds at the same site or a site not more than thirty miles from its current location if, for at least the most recent four consecutive calendar quarters, the facility operates only fifty percent of its then licensed capacity with every resident residing in a private room. In such case:

(1) The facility shall report to the division of aging vacant beds as unavailable for occupancy for at least the most recent four consecutive calendar quarters;

(2) The replacement beds shall be built to private room specifications and only used for single occupancy; and

(3) The existing facility and proposed facility shall have the same owner or owners, regardless of corporate or business structure, and such owner or owners shall stipulate in writing that the existing facility beds to be replaced will not later be used to provide long-term care services. If the facility is being operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

[10.] **9.** Nothing in this section shall prohibit a health care facility licensed pursuant to chapter 198, RSMo, from being replaced in its entirety within fifteen miles of its existing site so long as the existing facility and proposed or replacement facility have the same owner or owners regardless of corporate or business structure and the health care facility being replaced remains unlicensed and unused for any long-term care services whether they do or do not require a license from the date of licensure of the replacement facility.

EXPLANATION: Subsection 3 of this section expired 01-01-03.

197.366. HEALTH CARE FACILITIES DEFINED. — The [provisions of subdivision (8) of section 197.305 to the contrary notwithstanding, after December 31, 2001, the] term "health care facilities" in sections 197.300 to 197.366 shall mean:

(1) Facilities licensed under chapter 198, RSMo;

(2) Long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo;

(3) Long-term care hospitals or beds in a long-term care hospital meeting the requirements described in 42 CFR, section 412.23(e); and

(4) Construction of a new hospital as defined in chapter 197.

EXPLANATION: This section replaced the definition contained in subdivision (7) of section 197.305 after 12-31-01.

329.028. BOARD OF COSMETOLOGY AND BARBER EXAMINERS FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury a fund to be known as the "Board of Cosmetology and Barber Examiners Fund", which shall consist of all moneys collected by the board. All fees provided for in this chapter and chapter 328, RSMo, shall be payable to the director of the division of professional registration, who shall keep a record of the account showing the total payments received and shall immediately thereafter transmit them to the department of revenue for deposit in the state treasury to the credit of the board of cosmetology and barber examiners fund. All the salaries and expenses for the operation of the board shall be appropriated and paid from such fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule license renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

3. Upon appointment by the governor and confirmation by the senate of the board, all moneys deposited in the board of barbers fund created in section 328.050, RSMo, and the state board of cosmetology fund created in section 329.240, shall be transferred to the board of cosmetology and barber examiners fund created in subsection 1 of this section. The board of

barbers fund and the state board of cosmetology fund shall be abolished when all moneys are transferred to the board of cosmetology and barber examiners fund.]

EXPLANATION: The requirement in subsection 3 of this section for the transfer of moneys from abolished funds has occurred.

620.515. HERO AT HOME PROGRAM ESTABLISHED TO ASSIST MEMBERS OF THE NATIONAL GUARD AND THEIR FAMILIES. — 1. This section shall be known and may be cited as the "Hero at Home" program, the purpose of which is to:

(1) Assist the spouse of an active duty national guard or reserve component service member reservist to address immediate needs and employment in an attempt to keep the family from falling into poverty while the primary income earner is on active duty, and during the one-year period following discharge from deployment; and

(2) Assist returning national guard troops or reserve component service member reservists with finding work in situations where an individual needs to rebuild business clientele or where an individual's job has been eliminated while such individual was deployed, or where the individual otherwise cannot return to his or her previous employment.

2. Subject to appropriation, the department of economic development shall operate the hero at home program through existing programs or by entering into a contract with qualified providers through local workforce investment boards. Eligibility for the program shall be based on the following criteria:

(1) Eligible participants in the program shall be those families where:

(a) The primary income earner was called to active duty in defense of the United States for a period of more than four months;

(b) The family's primary income is no longer available;

(c) The family is experiencing significant hardship due to financial burdens; and

(d) The family has no outside resources available to assist with such hardships;

(2) Services that may be provided to the family will be aimed at ameliorating the immediate crisis and providing a path for economic stability while the primary income is not available due to the active military commitment. Services shall be made available up to one year following discharge from deployment. Services may include, but not be limited to the following:

(a) Financial assistance to families facing financial crisis from overdue bills due to reduced income after the deployment of a spouse;

(b) Help paying day care costs to pursue training and or employment;

(c) Help covering the costs of transportation to training and or employment;

(d) Vocational evaluation and vocational counseling to help the individual choose a visible employment goal;

(e) Vocational training to acquire or upgrade skills needed to be marketable in the workforce;

(f) Paid internships and subsidized employment to train on the job; and

(g) Job placement assistance for those who don't require skills training;

(3) The department shall ensure the eligible providers are:

(a) Community-based not-for-profit agencies which have significant experience in job training, placement, and social services;

(b) Providers with extensive experience providing such services to veterans and implementing contracts with veteran organizations such as the department of veteran affairs;

(c) Providers which have attained the distinction of being accredited through a national accreditation body for training and or human services;

(d) Providers which are able to provide a twenty percent match to the program either through indirect or direct expenditures; and

(e) Providers with experience in the regions targeted for the program.

3. The department shall structure any contract such that payment will be based on delivering the services described in this section as well as performance to guarantee the greatest possible effectiveness of the program.

4. Because of the important nature of this program to the health and welfare of Missourians, this section shall become effective on July 1, 2006. The department shall make every reasonable effort to ensure that the hero at home program is serving families by August 1, 2006.

[5. The department shall prepare a report on the operations and progress of the program to be delivered to the speaker of the house of representatives and the president pro tem of the senate no later than January 1, 2007.]

EXPLANATION: The report required under subsection 5 of this section was due for submission no later than 01-01-07.

[21.840. JOINT COMMITTEE ESTABLISHED, MEMBERS, APPOINTMENT, TERMS, DUTIES, MEETINGS — REPORT REQUIRED — EXPIRATION DATE. — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Preneed Funeral Contracts" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a comprehensive study and analysis of the consumer and economic impact on the preneed funeral contract industry in the state of Missouri;

(2) Determine from its study and analysis the need for changes in statutory law; and

(3) Make any other recommendation to the general assembly relating to its findings.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives.

4. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than January 31, 2009, and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on January 31, 2009.]

EXPLANATION: This section expired 01-31-09.

[57.130. PENALTIES AND FORFEITURES, COLLECTION OF — EXPIRATION DATE. — 1. The sheriffs of the several counties shall collect and account for all the fines, penalties, forfeitures and other sums of money, by whatever name designated, accruing to the state or any county by virtue of any order, judgment or decree of a court of record, provided that by court rule provision may be made for a court clerk to collect fines, penalties, forfeitures and other sums of money accruing to the state by virtue of any order, judgment or decree of the court.

2. The provisions of this section shall expire and be of no force and effect on and after July 1, 2007.]

EXPLANATION: This section expired 07-01-07.

[71.970. CABLE TELEVISION FACILITIES, MUNICIPALITIES MAY OWN AND OPERATE, REQUIREMENTS — PUBLIC SERVICE COMMISSION TO STUDY ECONOMIC IMPACT — EXPIRATION DATE. — 1. Municipalities may own and operate cable television facilities on a nondiscriminatory, competitively neutral basis, and at a price which covers costs, including imputed costs that the political subdivision would incur if it were a for-profit business. No municipality may own or operate cable television facilities and services unless approved by a vote of the people. This section shall apply only to municipalities that acquire or construct cable television facilities and services after August 28, 2002.

2. The public service commission shall annually study the economic impact of the provisions of this section and prepare and submit a report to the general assembly by December thirty-first of each year.

3. The provisions of this section shall terminate on August 28, 2007.]

EXPLANATION: This section expired 08-28-07.

[99.799. JOINT COMMITTEE ON TAX POLICY TO CONDUCT STUDY. — 1. The joint committee on tax policy shall conduct a study of the feasibility of creating a program to allow municipalities within the state to engage in tax increment finance-like projects with optional tax abatement in any area of such municipality regardless of the existence of blight. The committee shall report its findings to the general assembly no later than December 31, 2007.

2. The provisions of this section shall expire on January 1, 2008.]

EXPLANATION: This section expired 01-01-08.

[165.016. AMOUNT TO BE SPENT ON TUITION, RETIREMENT AND COMPENSATION — BASE SCHOOL YEAR CERTIFICATED SALARY PERCENTAGE — EXEMPTION AND REVISION — PENALTY — EXCEPTIONS — TERMINATION DATE. — 1. A school district shall expend as a percentage of current operating cost, for tuition, teacher retirement and compensation of certificated staff, a percentage that is for the 1994-95 and 1995-96 school years no less than three percentage points less than the base school year certificated salary percentage and for the 1996-97 school year, no less than two percentage points less than the base school year certificated salary percentage. A school district may exclude transportation and school safety and security expenditures from the current operating cost calculation of the base year and the year or years for which the compliance percentage is calculated. The base school year certificated salary percentage shall be the two-year average percentage of the 1991-92 and 1992-93 school years except as otherwise established by the state board under subsection 4 of this section; except that, for any school district experiencing, over a period of three consecutive years, an average yearly increase in average daily attendance of at least three percent, the base school year certificated salary percentage may be the two-year average percentage of the last two years of such period of three consecutive years, at the discretion of the school district.

2. Beginning with the 1997-98 school year, a school district shall:

(1) Expend, as a percentage of current operating cost, as determined in subsection 1 of this section, for tuition, teacher retirement and compensation of certificated staff, a percentage that is no less than two percentage points less than the base school year certificated salary percentage; or

(2) For any year in which no payment of a penalty is required for the district under subsection 6 of this section, have an unrestricted fund balance in the combined incidental and teachers' funds on June thirtieth which is equal to or less than ten percent of the combined expenditures for the year from those funds.

3. Beginning with the 1999-00 school year:

(1) As used in this subsection, "fiscal instructional ratio of efficiency" or "FIRE" means the quotient of the sum of the district's current operating costs, which for this section shall mean all expenditures for instruction and support services, excluding capital outlay and debt service expenditures less the revenue from federal categorical sources, food service, student activities, and payments from other districts, for all kindergarten through grade twelve direct instructional and direct pupil support service functions plus the costs of improvement of instruction and the cost of purchased services and supplies for operation of the facilities housing those programs, and excluding student activities, divided by the sum of the district's current operating cost, as defined in this subdivision, for kindergarten through grade twelve, plus all tuition revenue received from other districts minus all noncapital transportation and school safety and security costs;

(2) A school district shall show compliance with this section in school year 1998-99 and thereafter by the method described in subsections 1 and 2 of this section, or by maintaining or increasing its fiscal instructional ratio of efficiency compared to its FIRE for the 1997-98 base year.

4. (1) The state board of education may exempt a school district from the requirements of this section upon receiving a request for an exemption by a school district. The request shall show the reason or reasons for the noncompliance, and the exemption shall apply for only one school year. Requests for exemptions under this subdivision may be resubmitted in succeeding years.

(2) A school district may request of the state board a one-time, permanent revision of the base school year certificated salary percentage. The request shall show the reason or reasons for the revision.

5. Any school district requesting an exemption or revision under subsection 4 of this section must notify the certified staff of the district in writing of the district's intent. Prior to granting an exemption or revision, the state board shall consider comments from certified staff of the district. The state board decision shall be final.

6. Any school district which is determined by the department to be in violation of the requirements of subsection 1 or 2 of this section, or both, shall compensate the building-level administrative staff and nonadministrative certificated staff during the year following the notice of violation by an additional amount which is equal to one hundred ten percent of the amount necessary to bring the district into compliance with this section for the year of violation. In any year in which a penalty is paid, the district shall pay the penalty specified in this subsection in addition to the amount required under this section for the current school year.

7. Any additional transfers from the teachers' or incidental fund to the capital projects fund beyond the transfers authorized by state law and state board policy in effect on January 1, 1996, shall be considered expenditures from the teachers' or incidental fund for the purpose of determining compliance with the provisions of subsections 1, 2 and 3 of this section.

8. The provisions of this section shall not apply to any district wherein the local effort is greater than its weighted average daily attendance multiplied by the state adequacy target multiplied by the dollar value modifier under section 163.031, RSMo.

9. The provisions of subsections 1 to 8 of this section shall not apply to any district that has unrestricted fund balances in the combined incidental and teacher funds on June thirtieth of the

preceding year which are equal to or less than seventeen percent of the combined expenditure for the preceding year from these funds in any year in which state funds distributed pursuant to subsections 1 and 2 of section 163.031, RSMo, are no more than ninety-six percent of such state funds distributed in fiscal year 2002.

10. The provisions of subsections 1 to 8 of this section shall not apply to any district which meets the following criteria:

(1) With ten percent or more of its assessed valuation that is owned by one person or corporation as commercial or personal property who is delinquent in a property tax payment;

(2) With unrestricted fund balances in the combined incidental and teacher funds on June thirtieth of the preceding year which are equal to or less than one-half of the local property tax revenue for the previous year; and

(3) In any year in which state funds distributed pursuant to subsections 1 and 2 of section 163.031, RSMo, are no more than ninety-six percent of such state funds distributed in fiscal year 2002.

11. The provisions of this section shall terminate on June 30, 2007.]

EXPLANATION: This section expired 06-30-07.

[165.018. ONE-TIME TRANSFER FROM INCIDENTAL FUND TO CAPITAL PROJECTS FUND PERMITTED, AMOUNT, QUALIFICATIONS — TERMINATION DATE. — 1. Any school district shall be permitted to make a one-time additional transfer from the incidental fund to the capital projects fund in an amount not to exceed forty percent of that district's June 30, 2006, incidental fund if such school district meets one of the following qualifications:

(1) Has an average daily attendance between nine hundred forty and one thousand forty during the 2004-2005 school year, located at least partially in a county of the third classification with a township form of government and with more than twenty-nine thousand seven hundred but fewer than twenty-nine thousand eight hundred inhabitants and which entirely encompasses a city of the fourth classification with more than one thousand one hundred but fewer than one thousand two hundred inhabitants; or

(2) Has an average daily attendance between six hundred and six hundred thirty during the 2004-2005 school year, located at least partially in any county of the second classification with more than fifty-five thousand six hundred but fewer than fifty-five thousand seven hundred inhabitants; or

(3) Has an average daily attendance between four hundred sixty and four hundred ninety during the 2004-2005 school year, located at least partially in any county of the third classification without a township form of government and with more than twenty-three thousand two hundred fifty but fewer than twenty-three thousand three hundred fifty inhabitants; or

(4) Has an average daily attendance between one thousand four hundred and one thousand five hundred during the 2004-2005 school year and is located entirely within a county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants.

2. The provisions of this section shall terminate on July 1, 2007.]

EXPLANATION: This section expired on 07-01-07.

[192.632. TASK FORCE CREATED, MEMBERS, DUTIES. — 1. There is hereby created a "Chronic Kidney Disease Task Force". Unless otherwise stated, members shall be appointed by the director of the department of health and senior services and shall include, but not be limited to, the following members:

(1) Two physicians appointed from lists submitted by the Missouri state medical association;

(2) Two nephrologists;

- (3) Two family physicians;
 - (4) Two pathologists;
 - (5) One member who represents owners or operators of clinical laboratories in the state;
 - (6) One member who represents a private renal care provider;
 - (7) One member who has a chronic kidney disease;
 - (8) One member who represents the state affiliate of the National Kidney Foundation;
 - (9) One member who represents the Missouri kidney program;
 - (10) Two members of the house of representatives appointed by the speaker of the house;
 - (11) Two members of the senate appointed by the president pro tem of the senate;
 - (12) Additional members may be chosen to represent public health clinics, community health centers, and private health insurers.
2. A chairperson and vice chairperson shall be elected by the members of the task force.
 3. The chronic kidney disease task force shall:
 - (1) Develop a plan to educate the public and health care professionals about the advantages and methods of early screening, diagnosis, and treatment of chronic kidney disease and its complications based on kidney disease outcomes, quality initiative clinical practice guidelines for chronic kidney disease, or other medically recognized clinical practice guidelines;
 - (2) Make recommendations on the implementation of a cost-effective plan for early screening, diagnosis, and treatment of chronic kidney disease for the state's population;
 - (3) Identify barriers to adoption of best practices and potential public policy options to address such barriers;
 - (4) Submit a report of its findings and recommendations to the general assembly by August 30, 2008.
 4. The department of health and senior services shall provide all necessary staff, research, and meeting facilities for the chronic kidney disease task force.
 5. The provisions of this section shall expire August 30, 2008.]

EXPLANATION: This section expired August 30, 2008.

[208.344. WELFARE REFORM, PROGRESS REPORT TO BE SUBMITTED ANNUALLY BY DIVISION, CONTENT — EXPIRATION. — 1. By December 1, 2002, and annually thereafter, the division of family services shall submit a report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives regarding the progress of welfare reform in Missouri. The report shall include, but not be limited to, current statistics and recommendations regarding:

- (1) Individuals who have successfully left welfare and employment of such individuals;
 - (2) Individuals who remain on or have returned to welfare; and
 - (3) Benefits of welfare reform realized by families, employers, and the state.
2. The provisions of this section shall expire on December 31, 2007.]

EXPLANATION: This section expired on 12-31-07.

[208.978. REPORT ON FUND — RECOMMENDATIONS — EXPIRATION DATE. — 1. The MO HealthNet oversight committee shall develop and report upon recommendations to be delivered to the governor and general assembly relating to the expenditure of funds appropriated to the health care technology fund established under section 208.975.

2. Recommendations from the committee shall include an analysis and review, including but not limited to the following:

- (1) Reviewing the current status of health care information technology adoption by the health care delivery system in Missouri;
 - (2) Addressing the potential technical, scientific, economic, security, privacy, and other issues related to the adoption of interoperable health care information technology in Missouri;
-

- (3) Evaluating the cost of using interoperable health care information technology by the health care delivery system in Missouri;
 - (4) Identifying private resources and public/private partnerships to fund efforts to adopt interoperable health care information technology;
 - (5) Exploring the use of telemedicine as a vehicle to improve health care access to Missourians;
 - (6) Identifying methods and requirements for ensuring that not less than ten percent of appropriations within a single fiscal year shall be directed toward the purpose of expanding and developing minority-owned businesses that deliver technological enhancements to health care delivery systems and networks;
 - (7) Developing requirements to be recommended to the general assembly that ensure not more than twenty-five percent of appropriations from the health care technology fund in any fiscal year shall be contractually awarded to a single entity;
 - (8) Developing requirements to be recommended to the general assembly that ensure the number of contractual awards provided from the health care technology fund shall not be fewer than the number of congressional districts within Missouri; and
 - (9) Recommending best practices or policies for state government and private entities to promote the adoption of interoperable health care information technology by the Missouri health care delivery system.
3. The committee shall make and report its recommendations to the governor and general assembly on or before January 1, 2008.
 4. This section shall expire on April 15, 2008.]

EXPLANATION: This section expired on 04-15-08.

[211.013. DEFINITION OF CHILD, STATE COURTS ADMINISTRATOR TO CONDUCT A STUDY AND ISSUE A REPORT, WHEN. — The office of state courts administrator shall conduct a study and report to the general assembly by June 30, 2009, on the impact of changing the definition of child, as used in section 211.031, to include any person over seventeen years of age but not yet eighteen years of age alleged to have committed a status offense as defined in subdivision (2) of subsection 1 of section 211.031. The report shall contain information regarding the impact on caseloads of juvenile officers, including the average increase in caseload per juvenile officer for each judicial circuit, and the number of children affected by the change in definition.]

EXPLANATION: The study required under this section was due 06-30-09.

[217.860. TASK FORCE CREATED, DUTIES, MEMBERS, MEETINGS — EXPIRATION DATE. — 1. There is hereby created within the department of corrections a "Task Force on Alternative Sentencing". The primary duty of the task force is to develop a statewide plan for alternative sentencing programs. The plan shall include, but not be limited to, the following:

- (1) Public-private partnerships;
- (2) Job training;
- (3) Job placement;
- (4) Conflict resolution treatment; and
- (5) Alcohol and drug rehabilitation.

2. In developing this statewide plan the task force shall at a minimum acquire and review the following information:

- (1) The cost per year to incarcerate one offender;
- (2) The cost of the proposed alternative sentencing program or programs per year;
- (3) The recidivism rate for different types of offenses; and

(4) Information and research to assist the task force in determining which classes of offenders should be targeted in alternative sentencing programs.

3. The task force created in this section shall be comprised of the following members or their designees from the entity represented:

- (1) The director;
- (2) The director of the division of probation and parole;
- (3) Two probation and parole officers or supervisors, who shall be appointed by the director of the division of probation and parole;
- (4) One member of the department of economic development's workforce development office who shall be appointed by the director of the department of economic development;
- (5) Two circuit or associate circuit judges who shall be appointed by the governor;
- (6) Two chief executive officers of two different private businesses that employ a minimum of twenty employees each who shall be appointed by the governor;
- (7) Two prosecuting attorneys who shall be appointed by the governor;
- (8) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house and one of whom shall be appointed by the house minority leader; and
- (9) Two members of the senate, one of whom shall be appointed by the president pro tem of the senate and one of whom shall be appointed by the senate minority leader.

4. The task force shall meet at least quarterly and shall submit its recommendations and statewide plan for an alternative sentencing program or programs to the governor, to the general assembly, and to the director by December 31, 2006.

5. Members of the task force shall receive no additional compensation but shall be eligible for reimbursement for mileage directly related to the performance of task force duties.

6. The provisions of this section terminate on May 31, 2007.]

EXPLANATION: This section expired on 05-31-07.

[307.367. TRANSFER OF MONEYS TO THE MISSOURI AIR EMISSION REDUCTION FUND, WHEN, USE OF MONEYS, EXEMPTION FROM TRANSFER, MISSOURI AIR POLLUTION CONTROL FUND ABOLISHED, WHEN. — Prior to September 1, 2007, but no earlier than August 1, 2007, all moneys held in the Missouri air pollution control fund established under section 307.366 shall be transferred, as deemed necessary by the state treasurer and commissioner of administration, to the Missouri air emission reduction fund established in section 643.350, RSMo, to be used for the purposes of administering and enforcing the provisions of sections 643.300 to 643.355, RSMo. Prior to such date, any of the moneys in the Missouri air pollution control fund that are needed to pay any outstanding debt of the Missouri air pollution control fund, as determined by the state treasurer, shall be exempted from the provisions of this section. The Missouri air pollution control fund shall be officially abolished on September 1, 2007.]

EXPLANATION: The fund in this section was officially abolished on 09-01-07.

[374.208. STUDY ON INSURANCE MARKETS — EXPIRATION DATE. — The director shall study and recommend to the general assembly changes to avoid unnecessary duplication of market conduct activities and to implement uniform processes and procedures for market analysis and market conduct examinations which will more effectively utilize resources to protect insurance consumers. The study shall be completed and recommendations provided by January 1, 2008.]

EXPLANATION: The study required under this section was due on 01-01-08.

[376.990. STUDY TO BE CONDUCTED ON FINANCING OF THE STATE HEALTH INSURANCE POOL, CONTENTS, REPORT. — The board of directors of the state health insurance pool is

hereby directed to conduct a study regarding the financing of the state health insurance pool. Such study shall include, but not be limited to, research and findings of how other states finance their state high-risk pools. The study shall consider alternative assessment approaches to the current assessment method employed in section 376.975. In addition to studying alternative financing mechanisms employed by other state high-risk pools, the board shall explore the ramifications of eliminating or reducing a carrier's ability to offset their assessments against their premium tax liability. The polestar of the study shall be establishing a stable funding source for the Missouri state health insurance pool while providing adequate health insurance coverage to Missouri's uninsurable population. The board of directors of the state health insurance pool shall submit a report of its findings and recommendations to each member of the general assembly no later than January 1, 2008.]

EXPLANATION: The study required under this section was due 12-31-08.

Approved June 23, 2010

HB 1524 [SCS HCS HB 1524 & 2260]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding veterans and members of the military and establishes the Missouri Youth Challenge Academy

AN ACT to repeal sections 34.074, 41.030, 41.216, 41.560, 115.279, 115.281, 115.287, 115.291, 115.292, 143.1004, 160.545, 194.119, 447.503, and 447.559, RSMo, and to enact in lieu thereof twenty-eight new sections relating to military forces, with an emergency clause for certain sections.

SECTION

- A. Enacting clause.
 - 34.074. Disabled veterans, state and political subdivision contracts, preference to be given, when — rulemaking authority.
 - 41.025. POW and MIA designations recognized.
 - 41.030. Definitions.
 - 41.206. Missouri Youth Challenge Academy authorized, purpose — rulemaking authority.
 - 41.207. Missouri Youth Challenge Foundation Fund created, use of moneys.
 - 41.216. Grants from the Missouri military family relief fund, who may authorize — rulemaking authority.
 - 41.560. Meritorious service medal.
 - 41.572. Legion of merit medal.
 - 41.578. Missouri adjutant general staff identification badge.
 - 41.582. Missouri Iraq campaign ribbon.
 - 41.584. Missouri Afghanistan campaign ribbon.
 - 41.586. Missouri Kosovo campaign ribbon.
 - 41.588. Missouri Vietnam campaign ribbon.
 - 115.156. Voter registration application request, absent uniformed services and overseas voters.
 - 115.278. Absentee ballot application request, absent uniformed services and overseas voters.
 - 115.279. Application for absentee ballot, how made.
 - 115.281. Absentee ballots to be printed, when.
 - 115.287. Absentee ballot, how delivered.
 - 115.291. Confidentiality of applications for absentee ballots, list available to authorized persons free — certain cities and counties, special provisions, violations, penalty — fax, transmission may be used to deliver or return ballot, when.
 - 115.292. Special write-in absentee ballot for persons in military service or remote areas for all officers, forms — write-in ballot to be replaced by regular ballot, when, effect.
 - 143.1004. Tax refund may be designated to the Missouri military family relief fund — sunset provision.
-

- 160.545. A+ school program established — purpose — rules — variable fund match requirement — waiver of rules and regulations, requirement — reimbursement for higher education costs for students — evaluation — reimbursement for two-year schools.
- 194.119. Right of sepulcher, the right to choose and control final disposition of a dead human body.
- 301.3158. Legion of merit medal special license plate, procedure.
- 447.503. Definitions.
- 447.559. Historical review of items by state historical society, when — fee, how determined.
 - 1. Missouri national guard first sergeant ribbon.
 - 2. Governor's unit citation.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 34.074, 41.030, 41.216, 41.560, 115.279, 115.281, 115.287, 115.291, 115.292, 143.1004, 160.545, 194.119, 447.503, and 447.559, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 34.074, 41.025, 41.030, 41.206, 41.207, 41.216, 41.560, 41.572, 41.578, 41.582, 41.584, 41.586, 41.588, 115.156, 115.278, 115.279, 115.281, 115.287, 115.291, 115.292, 143.1004, 160.545, 194.119, 301.3158, 447.503, 447.559, 1, and 2, to read as follows:

34.074. DISABLED VETERANS, STATE AND POLITICAL SUBDIVISION CONTRACTS, PREFERENCE TO BE GIVEN, WHEN — RULEMAKING AUTHORITY. — 1. As used in this section, the term "service-disabled veteran" means any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

2. As used in this section, the term "service-disabled veteran business" means a business concern:

(1) Not less than fifty-one percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one percent of the stock of which is owned by one or more service-disabled veterans; and

(2) The management and daily business operations of which are controlled by one or more service-disabled veterans.

3. In letting contracts for the performance of any job or service, all agencies, departments, institutions, and other entities of this state and of each political subdivision of this state shall give **a three-point bonus** preference to **service-disabled veteran businesses** doing business as Missouri firms, corporations, or individuals, or which maintain Missouri offices or places of business[, when the quality of performance promised is equal or better and the price quoted is the same or less. The commissioner of administration may also give such preference whenever competing bids, in their entirety, are comparable].

4. In implementing the provisions of subsection 3 of this section, the following shall apply:

(1) The commissioner of administration shall have the goal of three percent of all such contracts described in subsection 3 of this section to be let to such veterans;

(2) If no **or an insufficient number of** such veterans doing business in this state [meet the quality of performance and price standards required in subsection 3 of this section] **submit a bid or proposal for a contract let by an agency, department, institution, or other entity of the state or a political subdivision**, such [preference] goal shall not be required **and the provisions of subdivision (1) of this subsection shall not apply**;

(3) **The commissioner of administration may promulgate rules in order to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or disapprove and annul a rule subsequently held**

unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

41.025. POW AND MIA DESIGNATIONS RECOGNIZED. — The state of Missouri hereby recognizes the designations of Prisoner of War (POW) and Missing in Action (MIA) as valid descriptions of casualty status and category classification for military personnel.

41.030. DEFINITIONS. — 1. The word "militia" as used in this code means all the active and potential military forces of the state, whether organized or unorganized.

2. Whenever reference is made in the articles of Uniform Code of Military Justice to the "military service" or to the "armed forces" of the United States the reference is deemed to include the military service and militia of this state.

3. "Primary next of kin" are, in order of precedence, surviving spouse, eldest child, father or mother, eldest brother or sister, or eldest grandchild.

41.206. MISSOURI YOUTH CHALLENGE ACADEMY AUTHORIZED, PURPOSE — RULEMAKING AUTHORITY. — 1. The adjutant general may establish the "Missouri Youth Challenge Academy" in order to provide positive interventions in the lives of at-risk high school age youth. The academy will utilize residential military-based training and supervised work experience to build life skills of high school dropouts. Academy participants will receive training that focuses on responsible citizenship, life-coping skills, academic skills, job training and placement, physical fitness, services to the community, personal development, group skills, professional values, and additional subjects as directed by the adjutant general.

2. Rules necessary to administer and implement this section may be established by the adjutant general. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

41.207. MISSOURI YOUTH CHALLENGE FOUNDATION FUND CREATED, USE OF MONEYS. — The "Missouri Youth Challenge Foundation Fund" is hereby created in the state treasury and shall consist of all gifts, donations, appropriations, transfers, and bequests to the fund. The adjutant general shall have the power to make grants from the fund to support the Missouri youth challenge academy as specified in section 41.206. The provisions of section 33.080 requiring all unexpended balances remaining in various state funds to be transferred and placed to the credit of the general revenue fund of the state at the end of each biennium shall not apply to the Missouri youth challenge foundation fund. Interest and moneys earned on the fund shall be credited to the fund. Moneys in the fund shall be used for the sole purpose of funding the Missouri youth challenge academy established under section 41.206.

41.216. GRANTS FROM THE MISSOURI MILITARY FAMILY RELIEF FUND, WHO MAY AUTHORIZE — RULEMAKING AUTHORITY. — 1. Subject to appropriation and upon the recommendation of a panel consisting of a [command sergeants] **sergeant** major of the Missouri national guard, a [command sergeants] **sergeant** major of a reserve component or its equivalent, and a representative of the Missouri veterans commission who shall establish criteria for the grants by the promulgation of rules and regulations, the adjutant general shall have the power to

make grants from the Missouri military family relief fund to families of persons who are members of the Missouri national guard or Missouri residents who are members of the reserves of the armed forces of the United States and who have been called to active duty as a result of the September 11, 2001, terrorist attacks.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

41.560. MERITORIOUS SERVICE MEDAL. — The governor is hereby authorized, upon recommendation of the adjutant general of Missouri, to present, in the name of the state of Missouri, a meritorious service medal, which shall be of suitable design, as may be determined by the governor, to individuals who have done and performed valorous or meritorious military service which reflects honorably and creditably upon the state of Missouri. Not more than one meritorious military service medal shall be awarded or presented under the provisions of this section to any one person, nor shall such medal be awarded to or retained by any person whose entire service subsequent to the valorous or meritorious military service shall not have been honorable. In the event of the death of any person during or subsequent to the meritorious military service, who, in the opinion of the governor, as recommended by the adjutant general of Missouri, would be entitled to a meritorious military service medal, the same may be presented to [a] the surviving [relative of the deceased in the following order, to wit: widow, if not remarried, eldest living son, eldest living daughter, father, mother, eldest living brother, eldest living sister, and eldest living grandchild] **primary next of kin**.

41.572. LEGION OF MERIT MEDAL. — The governor is hereby authorized, upon recommendation of the adjutant general of Missouri, to present, in the name of the state of Missouri, a legion of merit medal, which shall be of suitable design, as may be determined by the governor, to individuals who have exceptionally meritorious conduct in the performance of outstanding military service and achievement reflecting honorably and creditably upon the state of Missouri. Not more than one Missouri legion of merit medal shall be awarded or presented under the provisions of this section to any one person, nor shall such medal be awarded to or retained by any person whose entire military service subsequent to the exceptionally meritorious conduct in the performance of outstanding military service and achievement shall not have been honorable. In the event of the death of any person during or subsequent to the exceptionally meritorious conduct in the performance of outstanding military service and achievement, who, in the opinion of the governor, as recommended by the adjutant general of Missouri, would be entitled to a legion of merit medal, the same may be presented to the surviving primary next of kin.

41.578. MISSOURI ADJUTANT GENERAL STAFF IDENTIFICATION BADGE. — The adjutant general of Missouri is hereby authorized to present, in the name of the state of Missouri, a Missouri adjutant general staff identification badge, which is of suitable design as may be determined by the adjutant general of Missouri, and is neither an award nor decoration, but is a distinguished mark of service on the adjutant general's staff. This visible sign of professional growth associated with the important duties and responsibilities of the adjutant general's staff is not automatic, but is based on demonstrated outstanding performance of duty and approval by the adjutant general of Missouri. Not more than

one Missouri adjutant general staff identification badge shall be presented under the provisions of this section to any one person, nor shall such badge be awarded to or retained by any person whose service shall not have been honorable. In the event of the death of any person during or subsequent to their service, which, in the opinion of the adjutant general of Missouri, would be entitled to the Missouri adjutant general staff identification badge, the same may be presented to the surviving primary next of kin.

41.582. MISSOURI IRAQ CAMPAIGN RIBBON. — The governor is hereby authorized, upon recommendation of the adjutant general of Missouri, to present, in the name of the state of Missouri, a Missouri Iraq campaign ribbon, which shall be of suitable design, as may be determined by the governor, to members of the Missouri national guard who have served in direct support of Operation Iraqi Freedom. The area of eligibility encompasses all land area of the country of Iraq, and the contiguous water area out to twelve nautical miles, and all air spaces above the land area of Iraq and above the contiguous water area out to twelve nautical miles. The period of eligibility is on or after March 19, 2003, to a future date to be determined by the adjutant general of Missouri or the cessation of Operation Iraqi Freedom. Not more than one Missouri Iraq campaign ribbon shall be awarded or presented under the provisions of this section to any one person, nor shall such ribbon be awarded to or retained by any person whose entire service subsequent to the service in direct support of Operation Iraqi Freedom shall not have been honorable. In the event of the death of any person during or subsequent to their service in direct support of Operation Iraqi Freedom, who, in the opinion of the governor, as recommended by the adjutant general of Missouri, would be entitled to the Missouri Iraq campaign ribbon, the same may be presented to the surviving primary next of kin.

41.584. MISSOURI AFGHANISTAN CAMPAIGN RIBBON. — The governor is hereby authorized, upon recommendation of the adjutant general of Missouri, to present, in the name of the state of Missouri, a Missouri Afghanistan campaign ribbon, which shall be of suitable design, as may be determined by the governor, to members of the Missouri national guard who have served in direct support of Operation Enduring Freedom. The area of eligibility encompasses all land area of the country of Afghanistan and all air spaces above the land. The period of eligibility is on or after October 7, 2001, to a future date to be determined by the adjutant general of Missouri or the cessation of Operation Enduring Freedom. Not more than one Missouri Afghanistan campaign ribbon shall be awarded or presented under the provisions of this section to any one person, nor shall such ribbon be awarded to or retained by any person whose entire service subsequent to their service in direct support of Operation Enduring Freedom shall not have been honorable. In the event of the death of any person during or subsequent to their service in direct support of Operation Enduring Freedom, who, in the opinion of the governor, as recommended by the adjutant general of Missouri, would be entitled to the Missouri Afghanistan campaign ribbon, the same may be presented to the surviving primary next of kin.

41.586. MISSOURI KOSOVO CAMPAIGN RIBBON. — The governor is hereby authorized, upon recommendation of the adjutant general of Missouri, to present, in the name of the state of Missouri, a Missouri Kosovo campaign ribbon, which shall be of suitable design, as may be determined by the governor, to members of the Missouri national guard who, after March 24, 1999, participated in or served in direct support of Kosovo Operations: Allied Force; Joint Guardian; Allied Harbour; Sustain Hope/Shining Hope; Noble Anvil; or Kosovo Task Forces: Hawk; Saber; or Hunter within the Kosovo air campaign or Kosovo defense campaign areas of eligibility described as follows:

(1) Kosovo air campaign, the Kosovo air campaign began on March 24, 1999, and ended on June 10, 1999. The area of eligibility for the air campaign includes the total land area and air space of Serbia (including Kosovo), Montenegro, Albania, Macedonia, Bosnia, Croatia, Hungary, Romania, Greece, Bulgaria, Italy, and Slovenia; and the waters and air space of the Adriatic and Ionian Sea north of the thirty-ninth north latitude;

(2) Kosovo defense campaign, the Kosovo defense campaign began on June 11, 1999, to a date to be determined. The area of eligibility for the defense campaign includes the total land area and air space of Serbia (including Kosovo), Montenegro, Albania, Macedonia, and the waters and air space of the Adriatic Seas within twelve nautical miles of the Montenegro, Albania, and Croatia coastlines south of forty-two degrees and fifty-two minutes north latitude.

The period of eligibility is after March 24, 1999, to a future date to be determined by the adjutant general of Missouri or the cessation of the Kosovo defense campaign. Not more than one Missouri Kosovo campaign ribbon shall be awarded or presented under the provisions of this section to any one person, nor shall such ribbon be awarded to or retained by any person whose entire service subsequent to their Kosovo campaign service shall not have been honorable. In the event of the death of any person during or subsequent to their Kosovo service, who, in the opinion of the governor, as recommended by the adjutant general of Missouri, would be entitled to the Missouri Kosovo campaign ribbon, the same may be presented to the surviving primary next of kin.

41.588. MISSOURI VIETNAM CAMPAIGN RIBBON. — The governor is hereby authorized, upon recommendation of the adjutant general of Missouri, to present, in the name of the state of Missouri, a Missouri Vietnam campaign ribbon, which shall be of suitable design, as may be determined by the governor, to members of the Missouri national guard who served on active duty in the United States military service at any time beginning February 28, 1961 through May 7, 1975. Not more than one Missouri Vietnam campaign ribbon shall be awarded or presented under the provisions of this section to any one person, nor shall such ribbon be awarded to or retained by any person whose entire service subsequent to their service described above shall not have been honorable. In the event of the death of any person during or subsequent to their service as described above, who, in the opinion of the governor, as recommended by the adjutant general of Missouri, would be entitled to the Missouri Vietnam campaign ribbon, the same may be presented to the surviving primary next of kin.

115.156. VOTER REGISTRATION APPLICATION REQUEST, ABSENT UNIFORMED SERVICES AND OVERSEAS VOTERS. — 1. The secretary of state shall establish procedures for absent uniformed services voters and overseas voters to request, by mail or electronically, that voter registration applications be sent to the voter, and to request that such voter registration applications be sent by mail or electronically in the preferred method of transmission designated by the voter. The secretary of state shall designate not less than one means of electronic communication for use by absent uniformed services voters and overseas voters to request voter registration applications and to send such voter registration applications.

2. No election authority shall refuse to accept and process any otherwise valid voter registration application submitted by an absent uniformed services voter or an overseas voter solely on the basis of restrictions on paper type.

115.278. ABSENTEE BALLOT APPLICATION REQUEST, ABSENT UNIFORMED SERVICES AND OVERSEAS VOTERS. — The secretary of state shall establish procedures for absent uniformed services voters and overseas voters to request, by mail or electronically, that

absentee ballot applications be sent to the voter, and to request that such absentee ballot applications be sent by mail or electronically in the preferred method of transmission designated by the voter. The secretary of state shall designate not less than one means of electronic communication for use by absent uniformed services voters and overseas voters to request absentee ballot applications, to send such absentee ballot applications, and to provide related voting, balloting, and election information to such voters.

115.279. APPLICATION FOR ABSENTEE BALLOT, HOW MADE. — 1. Application for an absentee ballot may be made by the applicant in person, or by mail, or for the applicant, in person, by his or her guardian or a relative within the second degree by consanguinity or affinity. The election authority shall accept applications by facsimile transmission within the limits of its telecommunications capacity.

2. Each application shall be made to the election authority of the jurisdiction in which the person is or would be registered. Each application shall be in writing and shall state the applicant's name, address at which he or she is or would be registered, his or her reason for voting an absentee ballot [and], the address to which the ballot is to be mailed, if mailing is requested, **and for absent uniformed services and overseas applicants, the applicant's email address if electronic transmission is requested.** Each application to vote in a primary election shall also state which ballot the applicant wishes to receive. If any application fails to designate a ballot, the election authority shall, within three working days after receiving the application, notify the applicant by mail that it will be unable to deliver an absentee ballot until the applicant designates which political party ballot he or she wishes to receive. If the applicant does not respond to the request for political party designation, the election authority is authorized to provide the voter with that part of the ballot for which no political party designation is required.

3. **Except as provided in subsection 3 of section 115.281,** all applications for absentee ballots received prior to the sixth Tuesday before an election shall be stored at the office of the election authority until such time as the applications are processed in accordance with section 115.281. No application for an absentee ballot received in the office of the election authority by mail, by facsimile transmission or by a guardian or relative after 5:00 p.m. on the Wednesday immediately prior to the election shall be accepted by any election authority. No application for an absentee ballot submitted by the applicant in person after 5:00 p.m. on the day before the election shall be accepted by any election authority, except as provided in subsections 6, 8 and 9 of this section.

4. Each application for an absentee ballot shall be signed by the applicant or, if the application is made by a guardian or relative pursuant to this section, the application shall be signed by the guardian or relative, who shall note on the application his or her relationship to the applicant. If an applicant, guardian or relative is blind, unable to read or write the English language or physically incapable of signing the application, he or she shall sign by mark, witnessed by the signature of an election official or person of his or her own choosing. Any person who knowingly makes, delivers or mails a fraudulent absentee ballot application shall be guilty of a class one election offense.

5. (1) Notwithstanding any law to the contrary, any resident of the state of Missouri who resides outside the boundaries of the United States or who is on active duty with the armed forces of the United States or members of their immediate family living with them may request an absentee ballot for both the primary and subsequent general election with one application. [In addition, the election authority shall provide to each absent uniformed services voter and each overseas voter who submits an absentee ballot request an absentee ballot through the next two regularly scheduled general elections for federal office.]

(2) The election authority shall provide each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the election authority rejects the application or request, with the reasons for the rejection.

(3) Notwithstanding any other law to the contrary, if a standard oath regarding material misstatements of fact is adopted for uniformed and overseas voters pursuant to the Help America Vote Act of 2002, the election authority shall accept such oath for voter registration, absentee ballot, or other election-related materials.

(4) Not later than sixty days after the date of each regularly scheduled general election for federal office, each election authority which administered the election shall submit to the secretary of state in a format prescribed by the secretary a report on the combined number of absentee ballots transmitted to, and returned by, absent uniformed services voters and overseas voters for the election. The secretary shall submit to the Election Assistance Commission a combined report of such information not later than ninety days after the date of each regularly scheduled general election for federal office and in a standardized format developed by the commission pursuant to the Help America Vote Act of 2002. The secretary shall make the report available to the general public.

(5) As used in this section, the terms "absent uniformed services voter" and "overseas voter" shall have the meaning prescribed in 42 U.S.C. 1973ff-6.

6. An application for an absentee ballot by a new resident, as defined in section 115.275, shall be submitted in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or any authorized officer of the election authority, and in substantially the following form:

"STATE OF

COUNTY OF, ss.

I,, do solemnly swear that:

(1) Before becoming a resident of this state, I resided at (residence address) in (town, township, village or city) of County in the state of

(2) I moved to this state after the last day to register to vote in such general presidential election and I am now residing in the county of, state of Missouri;

(3) I believe I am entitled pursuant to the laws of this state to vote in the presidential election to be held November, (year);

(4) I hereby make application for a presidential and vice presidential ballot. I have not voted and shall not vote other than by this ballot at such election.

Signed

(Applicant)

.....
(Residence Address)

Subscribed and sworn to before me this day of

.....,

Signed

(Title and name of officer authorized to administer oaths)"

7. The election authority in whose office an application is filed pursuant to subsection 6 of this section shall immediately send a duplicate of such application to the appropriate official of the state in which the new resident applicant last resided and shall file the original of such application in its office.

8. An application for an absentee ballot by an intrastate new resident, as defined in section 115.275, shall be made in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or an authorized officer of the election authority, and in substantially the following form:

"STATE OF

COUNTY OF, ss.

I,, do solemnly swear that:

(1) Before becoming a resident of this election jurisdiction, I resided at (residence address) in (town, township, village or city) of county in the state of

(2) I moved to this election jurisdiction after the last day to register to vote in such election;

(3) I believe I am entitled pursuant to the laws of this state to vote in the election to be held (date);

(4) I hereby make application for an absentee ballot for candidates and issues on which I am entitled to vote pursuant to the laws of this state. I have not voted and shall not vote other than by this ballot at such election.

Signed

(Applicant)

.....

(Residence Address)

Subscribed and sworn to before me this day of,

Signed

(Title and name of officer authorized to administer oaths)"

9. An application for an absentee ballot by an interstate former resident, as defined in section 115.275, shall be received in the office of the election authority where the applicant was formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the application is made in person by the applicant in the office of the election authority, in which case such application shall be made no later than 7:00 p.m. on the day of the election.

115.281. ABSENTEE BALLOTS TO BE PRINTED, WHEN. — 1. Except as provided in subsection 3 of this section, not later than the sixth Tuesday prior to each election, or within fourteen days after candidates' names or questions are certified pursuant to section 115.125, the election authority shall cause to have printed and made available a sufficient quantity of absentee ballots, ballot envelopes and mailing envelopes. As soon as possible after the proper officer calls a special state or county election, the election authority shall cause to have printed and made available a sufficient quantity of absentee ballots, ballot envelopes and mailing envelopes.

2. All absentee ballots for an election shall be in the same form as the official ballots for the election, except that in lieu of the words "Official Ballot" at the top of the ballot, the words "Official Absentee Ballot" shall appear.

3. Not later than forty-five days before each general, primary, and special election for federal office, the election authority shall cause to have printed and made available a sufficient quantity of absentee ballots, ballot envelopes, and mailing envelopes for absent uniformed services voters and overseas voters and shall begin transmitting such ballots to absent uniformed services and overseas voters who have submitted an absentee ballot application.

115.287. ABSENTEE BALLOT, HOW DELIVERED. — 1. Upon receipt of a signed application for an absentee ballot and if satisfied the applicant is entitled to vote by absentee ballot, the election authority shall, within three working days after receiving the application, or if absentee ballots are not available at the time the application is received, within five working days after they become available, deliver to the voter an absentee ballot, ballot envelope and such instructions as are necessary for the applicant to vote. Delivery shall be made to the voter personally in the office of the election authority or by bipartisan teams appointed by the election authority, or by first class, registered, or certified mail at the discretion of the election authority, or in the case of absent uniformed services voters and overseas voters, by electronic transmission if electronic transmission is requested by the voter. Where the election authority is a county clerk, the members of bipartisan teams representing the political party other

than that of county clerk shall be selected from a list of persons submitted to the county clerk by the county chairman of that party. If no list is provided by the time that absentee ballots are to be made available, the county clerk may select a person or persons from lists provided in accordance with section 115.087. If the election authority is not satisfied that any applicant is entitled to vote by absentee ballot, it shall not deliver an absentee ballot to the applicant. Within three working days of receiving such an application, the election authority shall notify the applicant and state the reason he or she is not entitled to vote by absentee ballot. The applicant may appeal the decision of the election authority to the circuit court in the manner provided in section 115.223.

2. If, after 5:00 p.m. on the Wednesday before an election, any voter from the jurisdiction has become hospitalized, becomes confined due to illness or injury, or is confined in an adult boarding facility, intermediate care facility, residential care facility, or skilled nursing facility, as defined in section 198.006, RSMo, in the county in which the jurisdiction is located or in the jurisdiction or an adjacent election authority within the same county, the election authority shall appoint a team to deliver, witness the signing of and return the voter's application and deliver, witness the voting of and return the voter's absentee ballot. In counties with a charter form of government and in cities not within a county, and in each city which has over three hundred thousand inhabitants, and is situated in more than one county, if the election authority receives ten or more applications for absentee ballots from the same address it may appoint a team to deliver and witness the voting and return of absentee ballots by voters residing at that address, except when such addresses are for an apartment building or other structure wherein individual living units are located, each of which has its own separate cooking facilities. Each team appointed pursuant to this subsection shall consist of two registered voters, one from each major political party. Both members of any team appointed pursuant to this subsection shall be present during the delivery, signing or voting and return of any application or absentee ballot signed or voted pursuant to this subsection.

3. On the mailing and ballot envelopes for each applicant in federal service, the election authority shall stamp prominently in black the words "FEDERAL BALLOT, STATE OF MISSOURI" and "U.S. Postage Paid, 39 U.S.C. 3406".

4. No information which encourages a vote for or against a candidate or issue shall be provided to any voter with an absentee ballot.

115.291. CONFIDENTIALITY OF APPLICATIONS FOR ABSENTEE BALLOTS, LIST AVAILABLE TO AUTHORIZED PERSONS FREE — CERTAIN CITIES AND COUNTIES, SPECIAL PROVISIONS, VIOLATIONS, PENALTY — FAX, TRANSMISSION MAY BE USED TO DELIVER OR RETURN BALLOT, WHEN. — 1. Upon receiving an absentee ballot **in person or by mail**, the voter shall mark the ballot in secret, place the ballot in the ballot envelope, seal the envelope and fill out the statement on the ballot envelope. The affidavit of each person voting an absentee ballot shall be subscribed and sworn to before the election official receiving the ballot, a notary public or other officer authorized by law to administer oaths, unless the voter is voting absentee due to incapacity or confinement due to the provisions of section 115.284, illness or physical disability, **or the voter is an absent uniformed services voter or an overseas voter**. If the voter is blind, unable to read or write the English language, or physically incapable of voting the ballot, the voter may be assisted by a person of the voter's own choosing. Any person assisting a voter who is not entitled to such assistance, and any person who assists a voter and in any manner coerces or initiates a request or a suggestion that the voter vote for or against or refrain from voting on any question, ticket or candidate, shall be guilty of a class one election offense. If, upon counting, challenge or election contest, it is ascertained that any absentee ballot was voted with unlawful assistance, the ballot shall be rejected.

2. **Except as provided in subsection 4 of this section**, each absentee ballot shall be returned to the election authority in the ballot envelope and shall only be returned by the voter in person, or in person by a relative of the voter who is within the second degree of

consanguinity or affinity, by mail or registered carrier or by a team of deputy election authorities; except that persons in federal service, when sent from a location determined by the secretary of state to be inaccessible on election day, shall be allowed to return their absentee ballots cast by use of facsimile transmission or under a program approved by the Department of Defense for electronic transmission of election materials.

3. In cases of an emergency declared by the President of the United States or the governor of this state where the conduct of an election may be affected, the secretary of state may provide for the delivery and return of absentee ballots by use of a facsimile transmission device or system. Any rule promulgated pursuant to this subsection shall apply to a class or classes of voters as provided for by the secretary of state.

4. No election authority shall refuse to accept and process any otherwise valid marked absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of restrictions on envelope type.

5. As provided in the Military and Overseas Voter Empowerment Act, the secretary of state shall, in coordination with local election authorities, develop a free access system by which an absent uniformed services voter or overseas voter may determine whether the voter's absentee ballot has been received by the appropriate election authority.

115.292. SPECIAL WRITE-IN ABSENTEE BALLOT FOR PERSONS IN MILITARY SERVICE OR REMOTE AREAS FOR ALL OFFICERS, FORMS — WRITE-IN BALLOT TO BE REPLACED BY REGULAR BALLOT, WHEN, EFFECT. — 1. Notwithstanding any other provision of this chapter, a qualified absentee voter[, as described in subsection 3 of this section,] may apply for a special write-in absentee ballot within eighty days of a special, primary, or general election for federal office. Such a ballot shall be for voting for all offices being contested at such election.

2. A qualified absentee voter applying for a special write-in absentee ballot pursuant to this section shall apply to the local election authority of the area which contains his last residence in this state for such ballot. The application for a special write-in absentee ballot may be made on the federal postcard application form, by letter, or on a form provided by the local election authority.

3. [In order to qualify for a special write-in absentee ballot, the voter shall state that he is unable to vote by any other means due to requirements of military service or due to living in isolated or extremely remote areas of the world. This statement may be made by federal postcard application, by letter, or on a form prepared by the local election authority.

4.] Upon receipt of the application, the election authority shall issue a special write-in absentee ballot. Such ballot shall permit the voter to cast a ballot by writing in a party preference for each office, the names of specific candidates, or the names of persons whom the voter prefers.

[5.] **4.** The election authority shall issue a regular absentee ballot as soon as such ballots are available. If both the regular absentee ballot and the special write-in absentee ballot are returned, the regular absentee ballot shall be counted and the special write-in absentee ballot shall be voided.

5. The special write-in absentee ballot provided for in this section shall be used instead of the federal write-in absentee ballot in general, special, and primary elections for federal office as authorized in Title 42, U.S.C. Section 1973ff-2(e), as amended.

143.1004. TAX REFUND MAY BE DESIGNATED TO THE MISSOURI MILITARY FAMILY RELIEF FUND — SUNSET PROVISION. — 1. In each taxable year beginning on or after January 1, 2005, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the Missouri military family relief fund. The contribution designation authorized by this section shall be clearly and unambiguously printed on the first

page of each income tax return form provided by this state. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the Missouri military family relief fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the Missouri military family relief fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the Missouri military family relief fund as provided in subsection 2 of this section.

2. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the Missouri military family relief fund. The fund shall be administered by a [command sergeants] **sergeant** major of the Missouri national guard, a [command sergeants] **sergeant** major of a reserve component or its equivalent, and a representative of the Missouri veterans commission.

3. The director of revenue shall deposit at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the cost of collection, handling, and administration by the department of revenue during fiscal year 2006, to the Missouri military family relief fund, not to exceed seventy thousand dollars.

4. A contribution designated under this section shall only be deposited in the Missouri military family relief fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the Missouri military family relief fund shall be distributed by the adjutant general in accordance with the provisions of sections 41.216 and 41.218, RSMo.

6. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

7. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2005, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

160.545. A+ SCHOOL PROGRAM ESTABLISHED — PURPOSE — RULES — VARIABLE FUND MATCH REQUIREMENT — WAIVER OF RULES AND REGULATIONS, REQUIREMENT — REIMBURSEMENT FOR HIGHER EDUCATION COSTS FOR STUDENTS — EVALUATION — REIMBURSEMENT FOR TWO-YEAR SCHOOLS. — 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

(1) All students be graduated from school;

(2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and

(3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high-wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

(1) Establish measurable districtwide performance standards for the goals of the program outlined in subsection 1 of this section; and

(2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and

(3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and

(4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and

(5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. A school district may participate in the program irrespective of its accreditation classification by the state board of education, provided it meets all other requirements.

4. By rule and regulation, the state board of education may determine a local school district variable fund match requirement in order for a school or schools in the district to receive a grant under the program. However, no school in any district shall receive a grant under the program unless the district designates a salaried employee to serve as the program coordinator, with the district assuming a minimum of one-half the cost of the salary and other benefits provided to the coordinator. Further, no school in any district shall receive a grant under the program unless the district makes available facilities and services for adult literacy training as specified by rule of the state board of education.

5. For any school that meets the requirements for the approval of the grants authorized by this section and specified in subsection 2 of this section for three successive school years, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services in the school. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, except such waivers shall be confined to the school and not other schools in the school district unless such other schools meet the requirements of this subsection. However, any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the requirements for the approval of the grants authorized by this section as specified in subsection 2 of this section.

6. For any school year, grants authorized by subsections 1 to 3 of this section shall be funded with the amount appropriated for this program, less those funds necessary to reimburse eligible students pursuant to subsection 7 of this section.

7. The commissioner of education shall, by rule and regulation of the state board of education and with the advice of the coordinating board for higher education, establish a

procedure for the reimbursement of the cost of tuition, books and fees to any public community college or vocational or technical school or within the limits established in subsection 9 of this section for any two-year private vocational or technical school for any student:

(1) Who has attended a public high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section, except that students who are active duty military dependents, **and students who are dependants of retired military who relocate to Missouri within one year of the date of the parent's retirement from active duty**, who, in the school year immediately preceding graduation, meet all other requirements of this subsection and are attending a school that meets the requirements of subsection 2 of this section shall be exempt from the three-year attendance requirement of this subdivision; and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the state board of education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of said board.

8. The commissioner of education shall develop a procedure for evaluating the effectiveness of the program described in this section. Such evaluation shall be conducted annually with the results of the evaluation provided to the governor, speaker of the house, and president pro tempore of the senate.

9. For a two-year private vocational or technical school to obtain reimbursements under subsection 7 of this section, the following requirements shall be satisfied:

(1) Such two-year private vocational or technical school shall be a member of the North Central Association and be accredited by the Higher Learning Commission as of July 1, 2008, and maintain such accreditation;

(2) Such two-year private vocational or technical school shall be designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

(3) No two-year private vocational or technical school shall receive tuition reimbursements in excess of the tuition rate charged by a public community college for course work offered by the private vocational or technical school within the service area of such college; and

(4) The reimbursements provided to any two-year private vocational or technical school shall not violate the provisions of article IX, section 8, or article I, section 7, of the Missouri Constitution or the first amendment of the United States Constitution.

194.119. RIGHT OF SEPULCHER, THE RIGHT TO CHOOSE AND CONTROL FINAL DISPOSITION OF A DEAD HUMAN BODY. — 1. As used in this section, the term "right of sepulcher" means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

2. For purposes of this chapter and chapters 193, 333, and 436, RSMo, and in all cases relating to the custody, control, and disposition of deceased human remains, including the common law right of sepulcher, where not otherwise defined, the term "next-of-kin" means the following persons in the priority listed if such person is eighteen years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

(1) An attorney in fact designated in a durable power of attorney wherein the deceased specifically granted the right of sepulcher over his or her body to such attorney in fact;

(2) **For a decedent who was on active duty in the United States military at the time of death, the person designated by such decedent in the written instrument known as the United States Department of Defense Form 93, Record of Emergency Data, in accordance with P.L. 109-163, Section 564, 10 U.S.C. Section 1482;**

(3) The surviving spouse;

[(3)] (4) Any surviving child of the deceased. If a surviving child is less than eighteen years of age and has a legal or natural guardian, such child shall not be disqualified on the basis of the

child's age and such child's legal or natural guardian, if any, shall be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in dissolution from the deceased. In such event the person or persons who may serve as next-of-kin shall serve in the order provided in subdivisions [(4) to (8)] **(5) to (9)** of this subsection;

[(4)] **(5)** (a) Any surviving parent of the deceased; or

(b) If the deceased is a minor, a surviving parent who has custody of the minor; or

(c) If the deceased is a minor and the deceased's parents have joint custody, the parent whose residence is the minor child's residence for purposes of mailing and education;

[(5)] **(6)** Any surviving sibling of the deceased;

[(6)] **(7)** The next nearest surviving relative of the deceased by consanguinity or affinity;

[(7)] **(8)** Any person or friend who assumes financial responsibility for the disposition of the deceased's remains if no next-of-kin assumes such responsibility;

[(8)] **(9)** The county coroner or medical examiner; provided however that such assumption of responsibility shall not make the coroner, medical examiner, the county, or the state financially responsible for the cost of disposition.

3. The next-of-kin of the deceased shall be entitled to control the final disposition of the remains of any dead human being consistent with all applicable laws, including all applicable health codes.

4. A funeral director or establishment is entitled to rely on and act according to the lawful instructions of any person claiming to be the next-of-kin of the deceased; provided however, in any civil cause of action against a funeral director or establishment licensed pursuant to this chapter for actions taken regarding the funeral arrangements for a deceased person in the director's or establishment's care, the relative fault, if any, of such funeral director or establishment may be reduced if such actions are taken in reliance upon a person's claim to be the deceased person's next-of-kin.

5. Any person who desires to exercise the right of sepulcher and who has knowledge of an individual or individuals with a superior right to control disposition shall notify such individual or individuals prior to making final arrangements.

6. If an individual with a superior claim is personally served with written notice from a person with an inferior claim that such person desires to exercise the right of sepulcher and the individual so served does not object within forty-eight hours of receipt, such individual shall be deemed to have waived such right. An individual with a superior right may also waive such right at any time if such waiver is in writing and dated.

7. If there is more than one person in a class who are equal in priority and the funeral director has no knowledge of any objection by other members of such class, the funeral director or establishment shall be entitled to rely on and act according to the instructions of the first such person in the class to make arrangements; provided that such person assumes responsibility for the costs of disposition and no other person in such class provides written notice of his or her objection.

301.3158. LEGION OF MERIT MEDAL SPECIAL LICENSE PLATE, PROCEDURE. — Any person who has been awarded the military service award known as the legion of merit medal may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the legion of merit medal as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "LEGION OF MERIT" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically

attractive, as prescribed by section 301.130. Such plates shall also bear an image of the legion of merit medal. There shall be an additional fee charged for each set of legion of merit license plates issued under this section equal to the fee charged for personalized license plates. There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person. License plates issued under the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

447.503. DEFINITIONS. — As used in sections 447.500 to 447.595, unless the context otherwise requires, the following terms mean:

(1) "Banking organization", any bank, trust company, or safe deposit company, engaged in business in this state;

(2) "Business association", any corporation, joint stock company, business trust, partnership, limited partnership, or any association for business purposes, or any mutual fund or other similar entity, whether operating in the form of a corporation or a trust, including but not limited to any investment companies registered under the federal Investment Company Act of 1940;

(3) "Engaged in business in this state", any transaction of business within this state sufficient to support personal jurisdiction in the courts of this state;

(4) "Financial organization", any savings and loan association, credit union, or loan and investment company engaged in business in this state;

(5) "Holder", any person in possession of property subject to sections 447.500 to 447.595 belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to sections 447.500 to 447.595;

(6) "Insurance corporation", any association or corporation transacting within this state the business of property insurance or casualty insurance or life insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities;

(7) **"Military medals", any decoration or award that may be presented or awarded to a member of a unit of the armed forces or national guard;**

(8) "Owner", a depositor in case of a deposit, a beneficiary in case of a trust except a trust defined in section 456.500, RSMo, the unclaimed property of which has not escheated pursuant to the provisions of section 456.650, RSMo, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to sections 447.500 to 447.595, or such person's legal representative;

[(8)] (9) "Person", any individual, business association, government or political subdivision, public corporation, public authority, estate, trust except a trust defined in section 456.500, RSMo, two or more persons having a joint or common interest, or any other legal or commercial entity;

[(9)] (10) "Reasonable and necessary diligence as is consistent with good business practice", efforts appropriate to and commensurate with the nature and value of the property at issue; however, the holder shall send a notice regarding the unclaimed property via first class mail postage prepaid, marked "Address Correction Requested". Such letter shall be sent by the holder within twelve months prior to turning the property over to the treasurer. Notwithstanding the provisions of this section, the holder may treat letters sent in the ordinary course of business, first class and "Address Correction Requested" as satisfying the definition of "reasonable and necessary diligence as is consistent with good business practice". The holder may treat notices regarding the unclaimed property as satisfying the "reasonable and necessary standard" for contacting owners. If the postal service provides the holder with additional information as part of the address correction process, the holder shall send second and subsequent notices in the same format as the first notice to any new address provided to the holder;

~~[(10)]~~ **(11)** "Treasurer", the Missouri state treasurer;

~~[(11)]~~ **(12)** "Utility", any person who owns or operates within this state, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas or who engages in such business in this state.

447.559. HISTORICAL REVIEW OF ITEMS BY STATE HISTORICAL SOCIETY, WHEN — FEE, HOW DETERMINED. — All abandoned tangible personal property delivered to the treasurer pursuant to subdivision (4) of section 447.505 that has possible historical significance shall be reviewed as follows:

(1) The treasurer at the treasurer's discretion shall screen such property to determine if the property indicates a need for further review;

(2) In the event it is determined that such property needs further review, the treasurer shall make available such property to the state historical society of Missouri for historical review. The state historical society shall issue to the treasurer its report and recommend to the treasurer the appropriate state department or agency to act as custodian of any property deemed to be of such historical significance as to be retained;

(3) The state historical society shall receive a reasonable fee for its services. If the treasurer and the state historical society cannot agree on the amount of the fee, the commissioner of administration shall determine the fee. The fee shall be paid out of appropriations made from the abandoned fund account;

(4) The state treasurer's office upon receiving military medals shall hold and maintain such military medals until the original owner or their respective heirs or beneficiaries can be identified and the military medal returned. The state treasurer may designate a veteran's organization or other appropriate organization as custodian of medals until the original owner or their respective heirs or beneficiaries are located.

SECTION 1. MISSOURI NATIONAL GUARD FIRST SERGEANT RIBBON. — The adjutant general of Missouri is hereby authorized to present, in the name of the state of Missouri, a Missouri national guard first sergeant ribbon, which shall be of suitable design, as may be determined by the governor, to individual members of the Missouri national guard who have been assigned to a unit first sergeant position for a period of three years and have been recommended by their squadron or company commander. In order to qualify for the award the individual must have demonstrated exceptional and honorable leadership qualities and dedication as a first sergeant. This award shall be granted for those individuals who have previously served as first sergeants provided their service demonstrated exceptional and honorable leadership.

SECTION 2. GOVERNOR'S UNIT CITATION. — The governor is hereby authorized, upon the recommendation of the adjutant general of Missouri, to present in the name of the state of Missouri, a governor's unit citation, which shall be of suitable design, as may be determined by the governor, to units, teams, or task forces of the Missouri national guard which served during state emergency duty or federal deployments with outstanding honor and distinction, or whose service resulted in the preservation of life and property. Individuals assigned or attached to the units, teams, or task forces will be authorized to wear the governor's unit citation ribbon. This award will be granted to those units, teams, or task forces whose service or deployments occurred after September 11, 2001.

SECTION B. EMERGENCY CLAUSE. — Because of the need to address high school dropout rates in Missouri, the enactment of sections 41.206 and 41.207 of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the

enactment of sections 41.206 and 41.207 of section A of this act shall be in full force and effect upon its passage and approval.

Approved May 27, 2010

HB 1540 [HCS HB 1540]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires judicial procedures for an infraction to be the same as for a misdemeanor and requires motorists to obey reasonable signals and directions given by law enforcement in the enforcement of infractions

AN ACT to repeal sections 304.015, 307.010, 307.090, 307.120, 307.155, 307.172, 307.173, 307.195, 307.390, 307.400, and 556.021, RSMo, and to enact in lieu thereof twelve new sections relating to infractions, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 304.015. Drive on right of highway — traffic lanes — signs — violations, penalties.
- 307.010. Loads which might become dislodged to be secured — failure, penalty.
- 307.090. Spotlamps — restrictions, penalty.
- 307.120. Penalty for violations.
- 307.155. Violation a misdemeanor.
- 307.172. Altering passenger motor vehicle by raising front or rear of vehicle prohibited, when — bumpers front and rear required, when, exemptions — violations not to pass inspection — penalty.
- 307.173. Specifications for sun screening device applied to windshield or windows — permit required, when — exceptions — rules, procedure — violations, penalty.
- 307.195. License required — operation on interstate highway prohibited — violation, penalty.
- 307.390. Penalty for violation — superintendent of highway patrol may assign persons to enforce inspections laws.
- 307.400. Commercial vehicles, equipment and operation, regulations, exceptions — violations, penalty — rulemaking authority.
- 556.021. Infractions — defined, procedure — default judgment, when — effective date.
- 556.022. Signal of law enforcement officer, duty of drivers and riders to obey — violations, penalty.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 304.015, 307.010, 307.090, 307.120, 307.155, 307.172, 307.173, 307.195, 307.390, 307.400, and 556.021, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 304.015, 307.010, 307.090, 307.120, 307.155, 307.172, 307.173, 307.195, 307.390, 307.400, 556.021, and 556.022, to read as follows:

304.015. DRIVE ON RIGHT OF HIGHWAY — TRAFFIC LANES — SIGNS — VIOLATIONS, PENALTIES. — 1. All vehicles not in motion shall be placed with their right side as near the right-hand side of the highway as practicable, except on streets of municipalities where vehicles are obliged to move in one direction only or parking of motor vehicles is regulated by ordinance.

2. Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction pursuant to the rules governing such movement;

(2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of sections 304.014 to 304.025 or traffic regulations thereunder or of municipalities;

(3) When the right half of a roadway is closed to traffic while under construction or repair;

(4) Upon a roadway designated by local ordinance as a one-way street and marked or signed for one-way traffic.

3. It is unlawful to drive any vehicle upon any highway or road which has been divided into two or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway, except to the right of such barrier or dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except at an intersection or interchange or at any signed location designated by the state highways and transportation commission or the department of transportation. The provisions of this subsection shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the commission or the department.

4. The authorities in charge of any highway or the state highway patrol may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway, and all members of the Missouri highway patrol and other peace officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs.

5. Whenever any roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;

(3) Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided in sections 304.014 to 304.025;

(4) Official signs may be erected by the highways and transportation commission or the highway patrol may place temporary signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign;

(5) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.

6. All vehicles in motion upon a highway having two or more lanes of traffic proceeding in the same direction shall be driven in the right-hand lane except when overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.

7. All trucks registered for a gross weight of more than forty-eight thousand pounds shall not be driven in the far left-hand lane upon all interstate highways, freeways, or expressways within urbanized areas of the state having three or more lanes of traffic proceeding in the same direction. This restriction shall not apply when:

(1) It is necessary for the operator of the truck to follow traffic control devices that direct use of a lane other than the right lane; or

(2) The right half of a roadway is closed to traffic while under construction or repair.

8. As used in subsection 7 of this section, "truck" means any vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for or used in the transportation of property upon the highways. The term "truck" also includes a commercial motor vehicle as defined in section 301.010, RSMo.

9. Violation of this section shall be deemed [an infraction] **a class C misdemeanor** unless such violation causes an immediate threat of an accident, in which case such violation shall be deemed a class [C] **B misdemeanor**, or unless an accident results from such violation, in which case such violation shall be deemed a class A misdemeanor.

307.010. LOADS WHICH MIGHT BECOME DISLODGED TO BE SECURED — FAILURE, PENALTY. — 1. All motor vehicles, and every trailer and semitrailer operating upon the public highways of this state and carrying goods or material or farm products which may reasonably be expected to become dislodged and fall from the vehicle, trailer or semitrailer as a result of wind pressure or air pressure and/or by the movement of the vehicle, trailer or semitrailer shall have a protective cover or be sufficiently secured so that no portion of such goods or material can become dislodged and fall from the vehicle, trailer or semitrailer while being transported or carried.

2. Operation of a motor vehicle, trailer or semitrailer in violation of this section shall be [an infraction] **a class C misdemeanor**, and any person [who pleads or is found guilty] **convicted** thereof shall be punished as provided by law.

307.090. SPOTLAMPS — RESTRICTIONS, PENALTY. — 1. Any motor vehicle may be equipped with not to exceed one spotlight but every lighted spotlight shall be so aimed and used so as not to be dazzling or glaring to any person.

2. Notwithstanding the provisions of section 307.120, violation of this section is [an infraction] **a class C misdemeanor**.

307.120. PENALTY FOR VIOLATIONS. — Any person violating any of the provisions of sections 307.020 to 307.120 shall, upon conviction thereof, be deemed guilty of [an infraction] **a misdemeanor**. The term "person" as used in sections 307.020 to 307.120 shall mean and include any individual, association, joint stock company, copartnership or corporation.

307.155. VIOLATION A MISDEMEANOR. — Any person violating any of the provisions of sections 307.130 to 307.160 shall be deemed guilty of [an infraction] **a class C misdemeanor** and shall be punished by a fine of not to exceed fifty dollars for each offense.

307.172. ALTERING PASSENGER MOTOR VEHICLE BY RAISING FRONT OR REAR OF VEHICLE PROHIBITED, WHEN — BUMPERS FRONT AND REAR REQUIRED, WHEN, EXEMPTIONS — VIOLATIONS NOT TO PASS INSPECTION — PENALTY. — 1. No person shall operate any passenger motor vehicle upon the public streets or highways of this state, the body of which has been altered in such a manner that the front or rear of the vehicle is raised at such an angle as to obstruct the vision of the operator of the street or highway in front or to the rear of the vehicle.

2. Every motor vehicle which is licensed in this state and operated upon the public streets or highways of this state shall be equipped with front and rear bumpers if such vehicle was equipped with bumpers as standard equipment. This subsection shall not apply to motor vehicles designed or modified primarily for off-highway purposes while such vehicles are in tow or to motorcycles or motor-driven cycles, or to motor vehicles registered as historic motor vehicles when the original design of such vehicles did not include bumpers nor shall the provisions of this subsection prohibit the use of drop bumpers. The superintendent of the Missouri state highway patrol shall adopt rules and regulations relating to bumper standards. Maximum bumper heights of both the front and rear bumpers of motor vehicles shall be determined by weight category of gross vehicle weight rating (GVWR) measured from a level surface to the highest point of the

bottom of the bumper when the vehicle is unloaded and the tires are inflated to the manufacturer's recommended pressure. Maximum bumper heights are as follows:

	Maximum front bumper height	Maximum rear bumper height
Motor vehicles except commercial motor vehicles	22 inches	22 inches
Commercial motor vehicles (GVWR)		
4,500 lbs and under	24 inches	26 inches
4,501 lbs through 7,500 lbs	27 inches	29 inches
7,501 lbs through 9,000 lbs	28 inches	30 inches
9,001 lbs through 11,500 lbs	29 inches	31 inches

3. A motor vehicle in violation of this section shall not be approved during any motor vehicle safety inspection required pursuant to sections 307.350 to 307.390.

4. Any person knowingly violating the provisions of this section is guilty of [an infraction] a class C misdemeanor.

307.173. SPECIFICATIONS FOR SUN SCREENING DEVICE APPLIED TO WINDSHIELD OR WINDOWS — PERMIT REQUIRED, WHEN — EXCEPTIONS — RULES, PROCEDURE — VIOLATIONS, PENALTY. — 1. Any person may operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five percent or more plus or minus three percent and a luminous reflectance of thirty-five percent or less plus or minus three percent. Except as provided in subsection 5 of this section, any sun-screening device applied to front sidewing vents or windows located immediately to the left and right of the driver in excess of the requirements of this section shall be prohibited without a permit pursuant to a physician's prescription as described below. A permit to operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun-screening device, in conjunction with safety glazing material, which permits less light transmission and luminous reflectance than allowed under the requirements of this subsection, may be issued by the department of public safety to a person having a serious medical condition which requires the use of a sun-screening device if the permittee's physician prescribes its use. The director of the department of public safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by any titleholder or relative within the second degree by consanguinity or affinity, which shall mean a spouse, each grandparent, parent, brother, sister, niece, nephew, aunt, uncle, child, and grandchild of a person, who resides in the household. Except as provided in subsection 2 of this section, all sun-screening devices applied to the windshield of a motor vehicle are prohibited.

2. This section shall not prohibit labels, stickers, decalomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in section 700.010, RSMo, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory-installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the

powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

4. Any person who violates the provisions of this section is guilty of [an infraction] **a class C misdemeanor**.

5. Any vehicle licensed with a historical license plate shall be exempt from the requirements of this section.

307.195. LICENSE REQUIRED — OPERATION ON INTERSTATE HIGHWAY PROHIBITED — VIOLATION, PENALTY. — 1. No person shall operate a motorized bicycle on any highway or street in this state unless the person has a valid license to operate a motor vehicle.

2. No motorized bicycle may be operated on any public thoroughfare located within this state which has been designated as part of the federal interstate highway system.

3. Violation of this section shall be deemed [an infraction] **a class C misdemeanor**.

307.390. PENALTY FOR VIOLATION — SUPERINTENDENT OF HIGHWAY PATROL MAY ASSIGN PERSONS TO ENFORCE INSPECTIONS LAWS. — 1. Any person who violates any provision of sections 307.350 to 307.390 is guilty of [an infraction] **a misdemeanor** and upon [plea or finding of guilt] **conviction** shall be punished as provided by law.

2. The superintendent of the Missouri state highway patrol may assign qualified persons who are not highway patrol officers to investigate and enforce motor vehicle safety inspection laws and regulations pursuant to sections 307.350 to 307.390 and sections 643.300 to 643.355, RSMo. A person assigned by the superintendent pursuant to the authority granted by this subsection shall be designated a motor vehicle inspector and shall have limited powers to issue a uniform complaint and summons for a violation of the motor vehicle inspection laws and regulations. A motor vehicle inspector shall not have authority to exercise the power granted in this subsection until such inspector successfully completes training provided by, and to the satisfaction of, the superintendent.

307.400. COMMERCIAL VEHICLES, EQUIPMENT AND OPERATION, REGULATIONS, EXCEPTIONS — VIOLATIONS, PENALTY — RULEMAKING AUTHORITY. — 1. It is unlawful for any person to operate any commercial motor vehicle as defined in Title 49, Code of Federal Regulations, Part 390.5, either singly or in combination with a trailer, as both vehicles are defined in Title 49, Code of Federal Regulations, Part 390.5, unless such vehicles are equipped and operated as required by Parts 390 through 397, Title 49, Code of Federal Regulations, as such regulations have been and may periodically be amended, whether intrastate transportation or interstate transportation. Members of the Missouri state highway patrol are authorized to enter the cargo area of a commercial motor vehicle or trailer to inspect the contents when reasonable grounds exist to cause belief that the vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations. The director of the department of public safety is hereby authorized to further regulate the safety of commercial motor vehicles and trailers as he deems necessary to govern and control their operation on the public highways of this state by promulgating and publishing rules and regulations consistent with this chapter. Any such rules shall, in addition to any other provisions deemed necessary by the director, require:

(1) Every commercial motor vehicle and trailer and all parts thereof to be maintained in a safe condition at all times;

(2) Accidents arising from or in connection with the operation of commercial motor vehicles and trailers to be reported to the department of public safety in such detail and in such manner as the director may require. Except for the provisions of subdivisions (1) and (2) of this subsection, the provisions of this section shall not apply to any commercial motor vehicle operated in intrastate commerce and licensed for a gross weight of sixty thousand pounds or less

when used exclusively for the transportation of solid waste or forty-two thousand pounds or less when the license plate has been designated for farm use by the letter "F" as authorized by the Revised Statutes of Missouri, unless such vehicle is transporting hazardous materials as defined in Title 49, Code of Federal Regulations.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 391, Subpart E, Title 49, Code of Federal Regulations, relating to the physical requirements of drivers shall not be applicable to drivers in intrastate commerce, provided such drivers were licensed by this state as chauffeurs to operate commercial motor vehicles on May 13, 1988. Persons who are otherwise qualified and licensed to operate a commercial motor vehicle in this state may operate such vehicle intrastate at the age of eighteen years or older, except that any person transporting hazardous material must be at least twenty-one years of age.

3. Commercial motor vehicles and drivers of such vehicles may be placed out of service if the vehicles are not equipped and operated according to the requirements of this section. Criteria used for placing vehicles and drivers out of service are the North American Uniform Out-of-Service Criteria adopted by the Commercial Vehicle Safety Alliance and the United States Department of Transportation, as such criteria have been and may periodically be amended.

4. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 395, Title 49, Code of Federal Regulations, relating to the hours of drivers, shall not apply to any vehicle owned or operated by any public utility, rural electric cooperative or other public service organization, or to the driver of such vehicle, while providing restoration of essential utility services during emergencies and operating intrastate. For the purposes of this subsection, the term "essential utility services" means electric, gas, water, telephone and sewer services.

5. Part 395, Title 49, Code of Federal Regulations, relating to the hours of drivers, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in this state if such transportation:

(1) Is limited to an area within a one hundred air-mile radius from the source of the commodities or the distribution point for the farm supplies; and

(2) Is conducted during the planting and harvesting season within this state, as defined by the department of public safety by regulation.

6. The provisions of Part 395.8, Title 49, Code of Federal Regulations, relating to recording of a driver's duty status, shall not apply to drivers engaged in agricultural operations referred to in subsection 5 of this section, if the motor carrier who employs the driver maintains and retains for a period of six months accurate and true records showing:

(1) The total number of hours the driver is on duty each day; and

(2) The time at which the driver reports for, and is released from, duty each day.

7. Notwithstanding the provisions of subsection 1 of this section to the contrary, Parts 390 through 397, Title 49, Code of Federal Regulations shall not apply to commercial motor vehicles operated in intrastate commerce to transport property, which have a gross vehicle weight rating or gross combination weight rating of twenty-six thousand pounds or less. The exception provided by this subsection shall not apply to vehicles transporting hazardous materials or to vehicles designed to transport sixteen or more passengers including the driver as defined by Title 49 of the Code of Federal Regulations. Nothing in this subsection shall be construed to prohibit persons designated by the department of public safety from inspecting vehicles defined in this subsection.

8. Violation of any provision of this section or any rule promulgated as authorized therein is [an infraction] **a class B misdemeanor**.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the

effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

556.021. INFRACTIONS — DEFINED, PROCEDURE — DEFAULT JUDGMENT, WHEN — EFFECTIVE DATE. — 1. An offense defined by this code or by any other statute of this state constitutes an infraction if it is so designated or if [a violation of the statute can result only in] **no other sentence than a fine, or fine and forfeiture[,]** or other civil penalty[, or any combination thereof] **is authorized upon conviction.**

2. [A determination of whether an infraction has occurred shall be made by the filing of a civil action. The action shall be filed by a person who is authorized to bring a criminal action or an action to enforce an ordinance if the conduct constituted a crime or ordinance violation. The action shall be brought in the name of the state of Missouri or appropriate political subdivision. An infraction violation shall be proven by a preponderance of the evidence but shall not be tried to a jury. If an infraction violation is proven, judgment shall be entered for the plaintiff.

3. Notwithstanding any other provision of law to the contrary, it shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling on the roads of this state to stop on signal of any law enforcement officer and to obey any other reasonable signal or direction of such law enforcement officer given in the course of enforcing any infraction. Any person who willfully fails or refuses to obey any signal or direction of a law enforcement officer given in the course of enforcing any infraction, or who willfully resists or opposes a law enforcement officer in the proper discharge of his or her duties in the course of enforcing any infraction, shall be guilty of a class A misdemeanor and on plea or finding of guilt thereof shall be punished as provided by law for such offenses.

4. The supreme court of Missouri may promulgate rules for the enforcement of this section.] **An infraction does not constitute a crime and conviction of an infraction shall not give rise to any disability or legal disadvantage based on conviction of a crime.**

3. Except as otherwise provided by law, the procedure for infractions shall be the same as for a misdemeanor.

4. If a defendant fails to appear in court either solely for an infraction or for an infraction which is committed in the same course of conduct as a criminal offense for which the defendant is charged, or if a defendant fails to respond to notice of an infraction from the central violations bureau established in section 476.385, the court may issue a default judgment for court costs and fines for the infraction which shall be enforced in the same manner as other default judgments, including enforcement under sections 488.5028 and 488.5030, unless the court determines that good cause or excusable neglect exists for the defendant's failure to appear for the infraction. The notice of entry of default judgment and the amount of fines and costs imposed shall be sent to the defendant by first class mail. The default judgment may be set aside for good cause if the defendant files a motion to set aside the judgment within six months of the date the notice of entry of default judgment is mailed.

5. Notwithstanding subsection 4 of this section or any provisions of law to the contrary, a court may issue a warrant for failure to appear for any violation which is classified as an infraction.

6. Judgment against the defendant for an infraction shall be in the amount of the fine authorized by law and the court costs for the offense.

7. Subsections 3 to 6 of this section shall become effective January 1, 2012.

556.022. SIGNAL OF LAW ENFORCEMENT OFFICER, DUTY OF DRIVERS AND RIDERS TO OBEY — VIOLATIONS, PENALTY. — It shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling on the roads of this state to stop on signal of

any law enforcement officer and to obey any other reasonable signal or direction of such law enforcement officer given in the course of enforcing any infraction. Any person who willfully fails or refuses to obey any signal or direction of a law enforcement officer given in the course of enforcing any infraction, or who willfully resists or opposes a law enforcement officer in the proper discharge of his or her duties in the course of enforcing any infraction, is guilty of a class A misdemeanor and on plea or finding of guilt thereof shall be punished as provided by law for such offenses.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide a clear and consistent procedure for prosecuting infractions, the repeal and reenactment of section 556.021 and the enactment of section 556.022 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 556.021 and the enactment of section 556.022 of section A of this act shall be in full force and effect upon its passage and approval.

Approved February 25, 2010

HB 1543 [CCS SS#2 SCS HCS#2 HB 1543]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding school employee liability, safety practices, reporting acts of violence, and school funding

AN ACT to repeal sections 160.261, 160.775, 161.209, 161.650, 167.029, 167.117, 167.621, 167.624, 167.627, 167.630, 168.221, 168.500, 168.515, and 178.697, RSMo, and to enact in lieu thereof sixteen new sections relating to elementary and secondary education, with penalty provisions and an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 160.261. Discipline, written policy established by local boards of education — contents — reporting requirements — additional restrictions for certain suspensions — weapons offense, mandatory suspension or expulsion — no civil liability for authorized personnel — spanking not child abuse, when — investigation procedure — officials falsifying reports, penalty.
- 160.775. Antibullying policy required — definition — requirements.
- 161.209. Rules and policies, department has affirmative duty to seek comment on — review of existing rules and policies, procedure — no penalty for failure to meet resource standards, when.
- 161.371. School work construction projects, random drug and alcohol testing of contractors permitted.
- 161.650. Department to identify and adopt violence prevention program, district to administer — state board to adopt violence prevention program — duties — administered how — funding.
- 163.410. Compliance with certain expenditure requirements, school districts excused from, when.
- 167.029. School uniforms.
- 167.117. Principal, teachers, school employees to report certain acts, to whom, exceptions — limit on liability — penalty.
- 167.621. Authorization of parent or guardian, prerequisite — administration of medicine, first aid, immunity.
- 167.624. Lifesaving training — CPR.
- 167.627. Possession and self-administration of medication in school — requirements.
- 167.630. Epinephrine prefilled auto syringes, school nurse authorized to maintain adequate supply — administration authorized, when.
- 168.221. Probationary period for teachers — removal of probationary and permanent personnel — hearing — demotions — reduction of personnel (metropolitan districts).
- 168.500. Career and teacher excellence plan, career ladder forward funding fund established — general assembly to appropriate funds — termination of fund — participation to be voluntary — qualifications — speech pathologists on career program, when — funding limitations.

- 168.515. Salary supplement for participants in career plan — method of distribution — amounts — matching funds, contributions — review of career pay — tax levy authorized, when — use of funds.
- 178.697. Costs not to exceed appropriations — annual screenings and prenatal visit eligibility, when, expiration.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.261, 160.775, 161.209, 161.650, 167.029, 167.117, 167.621, 167.624, 167.627, 167.630, 168.221, 168.500, 168.515, and 178.697, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 160.261, 160.775, 161.209, 161.371, 161.650, 163.410, 167.029, 167.117, 167.621, 167.624, 167.627, 167.630, 168.221, 168.500, 168.515, and 178.697, to read as follows:

160.261. DISCIPLINE, WRITTEN POLICY ESTABLISHED BY LOCAL BOARDS OF EDUCATION — CONTENTS — REPORTING REQUIREMENTS — ADDITIONAL RESTRICTIONS FOR CERTAIN SUSPENSIONS — WEAPONS OFFENSE, MANDATORY SUSPENSION OR EXPULSION — NO CIVIL LIABILITY FOR AUTHORIZED PERSONNEL — SPANKING NOT CHILD ABUSE, WHEN — INVESTIGATION PROCEDURE — OFFICIALS FALSIFYING REPORTS, PENALTY. — 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to **all teachers at the attendance center and in addition, to** other school district employees with a need to know. For the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002, RSMo, to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

- (1) First degree murder under section 565.020, RSMo;
 - (2) Second degree murder under section 565.021, RSMo;
 - (3) Kidnapping under section 565.110, RSMo;
 - (4) First degree assault under section 565.050, RSMo;
 - (5) Forcible rape under section 566.030, RSMo;
 - (6) Forcible sodomy under section 566.060, RSMo;
 - (7) Burglary in the first degree under section 569.160, RSMo;
 - (8) Burglary in the second degree under section 569.170, RSMo;
 - (9) Robbery in the first degree under section 569.020, RSMo;
 - (10) Distribution of drugs under section 195.211, RSMo;
 - (11) Distribution of drugs to a minor under section 195.212, RSMo;
 - (12) Arson in the first degree under section 569.040, RSMo;
-

(13) Voluntary manslaughter under section 565.023, RSMo;
(14) Involuntary manslaughter under section 565.024, RSMo;
(15) Second degree assault under section 565.060, RSMo;
(16) Sexual assault under section 566.040, RSMo;
(17) Felonious restraint under section 565.120, RSMo;
(18) Property damage in the first degree under section 569.100, RSMo;
(19) The possession of a weapon under chapter 571, RSMo;
(20) Child molestation in the first degree pursuant to section 566.067, RSMo;
(21) Deviate sexual assault pursuant to section 566.070, RSMo;
(22) Sexual misconduct involving a child pursuant to section 566.083, RSMo;
(23) Sexual abuse pursuant to section 566.100, RSMo;
(24) Harassment under section 565.090, RSMo; or
(25) Stalking under section 565.225, RSMo; committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any [public] school **property** in the school district where such student attended school **or any activity of that district, regardless of whether or not the activity takes place on district property** unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian **and the superintendent or the superintendent's designee has authorized the student to be on school property;**

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student **and the superintendent or the superintendent's designee has authorized the student to be on school property;**

(3) Such student is **enrolled in and attending** an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171, RSMo. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. **This section shall not limit a school district's ability to:**

(1) **Prohibit all students who are suspended from being on school property or attending an activity while on suspension;**

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established [policy of discipline] **policies** developed by each board [under this section], **including but not limited to policies of student discipline** or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020, RSMo, to any school district in which the student subsequently attempts to enroll.

10. **(1) Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel** of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the **children's** division [of family services] shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to **the use of**

reasonable force to protect persons or property when administered by personnel of a school district or any spanking administered in a reasonable manner by any certificated school personnel in the presence of a witness who is an employee of the school district pursuant to a written policy of discipline established by the board of education of the school district, **as long as no allegation of sexual misconduct arises from the spanking or use of force.**

(2) Upon receipt of any reports of child abuse by the **children's** division [of family services] pursuant to sections 210.110 to 210.165, RSMo, which allegedly [involves] **involve** personnel of a school district, the **children's** division [of family services] shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel **or the use of reasonable force to protect persons or property when administered by school personnel** pursuant to a written policy of discipline or [a] **that the** report **was** made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the **children's** division [of family services] and take no further action.

(3) In all matters referred back to the **children's** division [of family services], the division [of family services] shall treat the report in the same manner as other reports of alleged child abuse received by the division. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel **or the use of reasonable force to protect persons or property when administered by personnel** of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's designee.

(4) The investigation shall begin no later than forty-eight hours after notification from the **children's** division [of family services] is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the **children's** division [of family services]. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

(5) The school board shall consider the separate reports and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

[1] (a) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that the evidence shows that no abuse occurred;

[2] (b) The report of the alleged child abuse is substantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel agree that the evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

[3)] (c) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

11. The findings and conclusions of the school board **under subdivision (5) of subsection 10 of this section** shall be sent to the **children's** division [of family services]. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the **children's** division [of family services] central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the **children's** division [of family services] shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the **children's** division [of family services] shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the **children's** division [of family services] unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

12. Any superintendent of schools, president of a school board or such person's designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

13. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

160.775. ANTIBULLYING POLICY REQUIRED — DEFINITION — REQUIREMENTS. — 1. Every district shall adopt an antibullying policy by September 1, 2007.

2. "Bullying" means intimidation or harassment that causes a reasonable student to fear for his or her physical safety or property. Bullying may consist of physical actions, including gestures, or oral, **cyberbullying, electronic**, or written communication, and any threat of retaliation for reporting of such acts.

3. Each district's antibullying policy shall be founded on the assumption that all students need a safe learning environment. Policies shall treat students equally and shall not contain specific lists of protected classes of students who are to receive special treatment. Policies may include age appropriate differences for schools based on the grade levels at the school. Each such policy shall contain a statement of the consequences of bullying.

4. Each district's antibullying policy shall require district employees to report any instance of bullying of which the employee has firsthand knowledge. The district policy shall address training of employees in the requirements of the district policy.

161.209. RULES AND POLICIES, DEPARTMENT HAS AFFIRMATIVE DUTY TO SEEK COMMENT ON — REVIEW OF EXISTING RULES AND POLICIES, PROCEDURE — NO PENALTY FOR FAILURE TO MEET RESOURCE STANDARDS, WHEN. — 1. The department of elementary and secondary education has an affirmative duty to seek comment on its rules, regulations, and policies after their final approval or implementation. The department shall undertake such review on existing rules, regulations, and policies on an ad hoc, periodic basis with a priority given to such rules, regulations, and policies that could successfully be revised without affecting student achievement to accommodate periods when there is no increase in the appropriation for basic

state aid funding pursuant to section 163.031, RSMo, from one fiscal year to the next or when withholdings of appropriated funds result in a situation equivalent to no increase in such appropriation.

2. For fiscal years 2011, 2012, and 2013, if the appropriation for subsections 1 and 2 of section 163.031 is less than the annualized calculation of the amount needed for the phase-in required under subsection 4 for that fiscal year or the appropriation for transportation as provided in subsection 3 of section 163.031 is funded at a level that provides less than seventy-five percent of allowable costs, the department shall not penalize any district undergoing its accreditation review for a failure to meet resource standards under the Missouri school improvement program. If the governor withholds funds for the school funding formula basic apportionment under section 163.031 in fiscal years 2011, 2012, and 2013, school districts undergoing accreditation review in the fiscal year following the fiscal year of withholding shall not be penalized for failure to meet resource standards under the Missouri school improvement program.

161.371. SCHOOL WORK CONSTRUCTION PROJECTS, RANDOM DRUG AND ALCOHOL TESTING OF CONTRACTORS PERMITTED. — 1. The office of administration shall issue regulations in accordance with chapter 536, requiring that, as a condition of bidding as a contractor or subcontracting from a bidding contractor for public works construction projects on public and charter elementary and secondary education construction projects, each said contractor or subcontractor shall establish and implement a random drug and alcohol testing program. Said drug and alcohol testing program shall be administered by a laboratory duly certified by the U.S. Department of Health and Human Services, or similar agency approved by the office of administration. Such program shall require notification to the employer and employee of the results of any positive drug and alcohol test and the school district shall be notified of the action taken to protect the safety of students as a result of such positive test.

2. The office of administration shall ensure that rules promulgated to implement the provisions of this section shall not be in violation of any applicable federal law or regulation. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

3. All costs for the program of screening and testing workers for alcohol and controlled substances, as well as all costs for administration of such drug and alcohol testing program shall be paid by the employer on the public works project. No costs under this section shall be paid by the state, any of its agencies, or any political subdivision thereof.

4. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly under chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rule making authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

161.650. DEPARTMENT TO IDENTIFY AND ADOPT VIOLENCE PREVENTION PROGRAM, DISTRICT TO ADMINISTER — STATE BOARD TO ADOPT VIOLENCE PREVENTION PROGRAM — DUTIES — ADMINISTERED HOW — FUNDING. — 1. The department of elementary and secondary education shall identify and adopt an existing program or programs of educational

instruction regarding violence prevention to be administered by public school districts pursuant to subsection 2 of this section, and which shall include, but shall not be limited to, instructing students of the negative consequences, both to the individual and to society at large, of membership in or association with criminal street gangs or participation in criminal street gang activity, as those phrases are defined in section 578.421, RSMo, and shall include related training for school district employees directly responsible for the education of students concerning violence prevention and early identification of and intervention in violent behavior. The state board of education shall adopt such program or programs by rule as approved for use in Missouri public schools. The program or programs of instruction shall encourage nonviolent conflict resolution of problems facing youth; present alternative constructive activities for the students; encourage community participation in program instruction, including but not limited to parents and law enforcement officials; and shall be administered as appropriate for different grade levels and shall not be offered for academic credit.

2. All public school districts within this state with the approval of the district's board of education may administer the program or programs of student instruction adopted pursuant to subsection 1 of this section to students within the district starting at the kindergarten level and every year thereafter through the twelfth-grade level.

3. Any district adopting and providing a program of instruction pursuant to this section shall be entitled to receive state aid pursuant to section 163.031, RSMo. If such aid is determined by the department to be insufficient to implement any program or programs adopted by a district pursuant to this section:

(1) The department may fund the program or programs adopted pursuant to this section or pursuant to subsection 2 of section 160.530, RSMo, or both, after securing any funding available from alternative sources; and

(2) School districts may fund the program or programs from funds received pursuant to subsection 1 of section 160.530, RSMo[, and section 166.260, RSMo].

4. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

163.410. COMPLIANCE WITH CERTAIN EXPENDITURE REQUIREMENTS, SCHOOL DISTRICTS EXCUSED FROM, WHEN. — 1. Notwithstanding the provisions of section 163.021, in fiscal years 2011, 2012, and 2013, if the appropriation for subsections 1 and 2 of section 163.031 is less than the annualized calculation of the amount needed for the phase-in required under subsection 4 of section 163.031 for that fiscal year or the appropriation for transportation as provided in subsection 3 of section 163.031 is funded at a level that provides less than seventy-five percent of allowable costs, school districts shall be excused from compliance with:

(1) Spending funds for professional development as required under subsection 1 of section 160.530; and

(2) The fund placement and expenditure requirements of subsection 6 of section 163.031.

2. If the governor withholds funds for the school funding formula basic apportionment under section 163.031, in fiscal years 2011, 2012, and 2013, school districts shall be excused from compliance with the statutes listed in subsection 1 of this section in the following fiscal year.

167.029. SCHOOL UNIFORMS. — A public school district [in any city not within a county shall determine whether a dress code policy requiring pupils] **may require students** to wear a school uniform [is appropriate at any school or schools within such district, and if it is so determined, shall adopt such a policy] **or restrict student dress to a particular style in accordance with the law.** The school district may determine the style and color of the school uniform.

167.117. PRINCIPAL, TEACHERS, SCHOOL EMPLOYEES TO REPORT CERTAIN ACTS, TO WHOM, EXCEPTIONS — LIMIT ON LIABILITY — PENALTY. — 1. In any instance when any person is believed to have committed an act which if committed by an adult would be assault in the first, second or third degree, sexual assault, or deviate sexual assault against a pupil or school employee, while on school property, including a school bus in service on behalf of the district, or while involved in school activities, the principal shall immediately report such incident to the appropriate local law enforcement agency and to the superintendent, except in any instance when any person is believed to have committed an act which if committed by an adult would be assault in the third degree and a written agreement as to the procedure for the reporting of such incidents of third degree assault has been executed between the superintendent of the school district and the appropriate local law enforcement agency, the principal shall report such incident to the appropriate local law enforcement agency in accordance with such agreement.

2. In any instance when a pupil is discovered to have on or about such pupil's person, or among such pupil's possessions, or placed elsewhere on the school premises, including but not limited to the school playground or the school parking lot, on a school bus or at a school activity whether on or off of school property any controlled substance as defined in section 195.010, RSMo, or any weapon as defined in subsection [4] 6 of section 160.261, RSMo, in violation of school policy, the principal shall immediately report such incident to the appropriate local law enforcement agency and to the superintendent.

3. In any instance when a teacher becomes aware of an assault as set forth in subsection 1 of this section or finds a pupil in possession of a weapon or controlled substances as set forth in subsection 2 of this section, the teacher shall immediately report such incident to the principal.

4. A school employee, superintendent or such person's designee who in good faith provides information to law enforcement or juvenile authorities pursuant to this section or section 160.261, RSMo, shall not be civilly liable for providing such information.

5. Any school official responsible for reporting pursuant to this section or section 160.261, RSMo, who willfully neglects or refuses to perform this duty shall be subject to the penalty established pursuant to section 162.091, RSMo.

167.621. AUTHORIZATION OF PARENT OR GUARDIAN, PREREQUISITE — ADMINISTRATION OF MEDICINE, FIRST AID, IMMUNITY. — 1. Persons providing health services under sections 167.600 to 167.621 shall obtain authorization from a parent or guardian of the child before providing services as provided by section 431.061, RSMo.

2. No employee of any school district may be required to administer medication or medical services for which the employee is not qualified according to standard medical practices. No **unqualified** employee who refuses to [violate this provision] **administer medication or medical services** shall be subject to any disciplinary action for such refusal. Nothing herein shall be construed to prevent any employee from providing routine first aid, provided that any employee shall be held harmless **and immune** from any liability if such employee is following a proper procedure adopted by the local school board.

3. Any qualified employee shall be held harmless and immune from any civil liability for administering medication or medical services in good faith and according to standard medical practices.

167.624. LIFESAVING TRAINING — CPR. — Each school board in the state, if the school district does not presently have a program as described below, may develop and implement a program to train the students **and employees** of the district in the administration of cardiopulmonary resuscitation and other lifesaving methods, as they determine best, and may consult the department of public safety, the state fire marshal's office, the local fire protection authorities, and others as the board sees fit. The board may make completion of the program a requirement for graduation. **Any trained employee shall be held harmless and immune from**

any civil liability for administering cardiopulmonary resuscitation and other lifesaving methods in good faith and according to standard medical practices.

167.627. POSSESSION AND SELF-ADMINISTRATION OF MEDICATION IN SCHOOL — REQUIREMENTS. — 1. For purposes of this section, the following terms shall mean:

(1) "Medication", any medicine prescribed or ordered by a physician for the treatment of asthma or anaphylaxis, including without limitation inhaled bronchodilators and auto-injectible epinephrine;

(2) "Self-administration", a pupil's discretionary use of medication prescribed by a physician or under a written treatment plan from a physician.

2. Each board of education and its employees and agents in this state shall grant any pupil in the school authorization for the possession and self-administration of medication to treat such pupil's **chronic health condition, including but not limited to** asthma or anaphylaxis if:

(1) A licensed physician prescribed or ordered such medication for use by the pupil and instructed such pupil in the correct and responsible use of such medication;

(2) The pupil has demonstrated to the pupil's licensed physician or the licensed physician's designee, and the school nurse, if available, the skill level necessary to use the medication and any device necessary to administer such medication prescribed or ordered;

(3) The pupil's physician has approved and signed a written treatment plan for managing **the pupil's chronic health condition, including** asthma or anaphylaxis episodes [of the pupil] and for medication for use by the pupil. Such plan shall include a statement that the pupil is capable of self-administering the medication under the treatment plan;

(4) The pupil's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan required under subdivision (3) of this subsection and the liability statement required under subdivision (5) of this subsection; and

(5) The pupil's parent or guardian has signed a statement acknowledging that the school district and its employees or agents shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil or the administration of such medication by school staff. Such statement shall not be construed to release the school district and its employees or agents from liability for negligence.

3. An authorization granted under subsection 2 of this section shall:

(1) Permit such pupil to possess and self-administer such pupil's medication while in school, at a school-sponsored activity, and in transit to or from school or school-sponsored activity; and

(2) Be effective only for the same school and school year for which it is granted. Such authorization shall be renewed by the pupil's parent or guardian each subsequent school year in accordance with this section.

4. Any current duplicate prescription medication, if provided by a pupil's parent or guardian or by the school, shall be kept at a pupil's school in a location at which the pupil or school staff has immediate access in the event of an asthma or anaphylaxis emergency.

5. The information described in subdivisions (3) and (4) of subsection 2 of this section shall be kept on file at the pupil's school in a location easily accessible in the event of an [asthma or anaphylaxis] emergency.

167.630. EPINEPHRINE PREFILLED AUTO SYRINGES, SCHOOL NURSE AUTHORIZED TO MAINTAIN ADEQUATE SUPPLY — ADMINISTRATION AUTHORIZED, WHEN. — 1. Each school board may authorize a school nurse licensed under chapter 335, RSMo, who is employed by the school district and for whom the board is responsible for to maintain an adequate supply of prefilled auto syringes of epinephrine with fifteen-hundredths milligram or three-tenths milligram delivery at the school. The nurse shall recommend to the school board the number of prefilled epinephrine auto syringes that the school should maintain.

2. To obtain prefilled epinephrine auto syringes for a school district, a prescription written by a licensed physician, a physician's assistant, or nurse practitioner is required. For such prescriptions, the school district shall be designated as the patient, the nurse's name shall be required, and the prescription shall be filled at a licensed pharmacy.

3. A school nurse **or other school employee trained by and supervised by the nurse** shall have the discretion to use an epinephrine auto syringe on any student the school nurse **or trained employee** believes is having a life-threatening anaphylactic reaction based on the [nurse's] training in recognizing an acute episode of an anaphylactic reaction. **The provisions of section 167.624 concerning immunity from civil liability for trained employees administering life-saving methods shall apply to trained employees administering a prefilled auto syringe under this section.**

168.221. PROBATIONARY PERIOD FOR TEACHERS — REMOVAL OF PROBATIONARY AND PERMANENT PERSONNEL — HEARING — DEMOTIONS — REDUCTION OF PERSONNEL (METROPOLITAN DISTRICTS). — 1. The first five years of employment of all teachers entering the employment of the metropolitan school district shall be deemed a period of probation during which period all appointments of teachers shall expire at the end of each school year. During the probationary period any probationary teacher whose work is unsatisfactory shall be furnished by the superintendent of schools with a written statement setting forth the nature of his incompetency. If improvement satisfactory to the superintendent is not made within one semester after the receipt of the statement, the probationary teacher shall be dismissed. The semester granted the probationary teacher in which to improve shall not in any case be a means of prolonging the probationary period beyond five years and six months from the date on which the teacher entered the employ of the board of education. The superintendent of schools on or before the fifteenth day of April in each year shall notify probationary teachers who will not be retained by the school district of the termination of their services. Any probationary teacher who is not so notified shall be deemed to have been appointed for the next school year. Any principal who prior to becoming a principal had attained permanent employee status as a teacher shall upon ceasing to be a principal have a right to resume his or her permanent teacher position with the time served as a principal being treated as if such time had been served as a teacher for the purpose of calculating seniority and pay scale. The rights and duties and remuneration of a teacher who was formerly a principal shall be the same as any other teacher with the same level of qualifications and time of service.

2. After completion of satisfactory probationary services, appointments of teachers shall become permanent, subject to removal for any one or more causes herein described and to the right of the board to terminate the services of all who attain the age of compulsory retirement fixed by the retirement system. In determining the duration of the probationary period of employment in this section specified, the time of service rendered as a substitute teacher shall not be included.

3. No teacher whose appointment has become permanent may be removed except for one or more of the following causes: immorality, inefficiency in line of duty, violation of the published regulations of the school district, violation of the laws of Missouri governing the public schools of the state, or physical or mental condition which incapacitates him for instructing or associating with children, and then only by a vote of not less than a majority of all the members of the board, upon written charges presented by the superintendent of schools, to be heard by the board after thirty days' notice, with copy of the charges served upon the person against whom they are preferred, who shall have the privilege of being present **at the hearing**, together with counsel, offering evidence and making defense thereto. Notifications received by an employee during a vacation period shall be considered as received on the first day of the school term following. At the request of any person so charged the hearing shall be public. **During any time in which powers granted to the district's board of education are vested in a special administrative board, the special administrative board may appoint a hearing officer to**

conduct the hearing. The hearing officer shall conduct the hearing as a contested case under chapter 536 and shall issue a written recommendation to the board rendering the charges against the teacher. The board shall render a decision on the charges upon the review of the hearing officer's recommendations and the record from the hearing. The action and decision of the board upon the charges shall be final. Pending the hearing of the charges, the person charged may be suspended if the rules of the board so prescribe, but in the event the board does not by a majority vote of all the members remove the teacher upon charges presented by the superintendent, the person shall not suffer any loss of salary by reason of the suspension. Inefficiency in line of duty is cause for dismissal only after the teacher has been notified in writing at least one semester prior to the presentment of charges against him by the superintendent. The notification shall specify the nature of the inefficiency with such particularity as to enable the teacher to be informed of the nature of his inefficiency.

4. No teacher whose appointment has become permanent shall be demoted nor shall his salary be reduced unless the same procedure is followed as herein stated for the removal of the teacher because of inefficiency in line of duty, and any teacher whose salary is reduced or who is demoted may waive the presentment of charges against him by the superintendent and a hearing thereon by the board. The foregoing provision shall apply only to permanent teachers prior to the compulsory retirement age under the retirement system. Nothing herein contained shall in any way restrict or limit the power of the board of education to make reductions in the number of teachers or principals, or both, because of insufficient funds, decrease in pupil enrollment, or abolition of particular subjects or courses of instruction, except that the abolition of particular subjects or courses of instruction shall not cause those teachers who have been teaching the subjects or giving the courses of instruction to be placed on leave of absence as herein provided who are qualified to teach other subjects or courses of instruction, if positions are available for the teachers in the other subjects or courses of instruction.

5. Whenever it is necessary to decrease the number of teachers because of insufficient funds or a substantial decrease of pupil population within the school district, the board of education upon recommendation of the superintendent of schools may cause the necessary number of teachers beginning with those serving probationary periods to be placed on leave of absence without pay, but only in the inverse order of their appointment. Nothing herein stated shall prevent a readjustment by the board of education of existing salary schedules. No teacher placed on a leave of absence shall be precluded from securing other employment during the period of the leave of absence. Each teacher placed on leave of absence shall be reinstated in inverse order of his placement on leave of absence. Such reemployment shall not result in a loss of status or credit for previous years of service. No new appointments shall be made while there are available teachers on leave of absence who are seventy years of age or less and who are adequately qualified to fill the vacancy unless the teachers fail to advise the superintendent of schools within thirty days from the date of notification by the superintendent of schools that positions are available to them that they will return to employment and will assume the duties of the position to which appointed not later than the beginning of the school year next following the date of the notice by the superintendent of schools.

6. If any regulation which deals with the promotion of teachers is amended by increasing the qualifications necessary to be met before a teacher is eligible for promotion, the amendment shall fix an effective date which shall allow a reasonable length of time within which teachers may become qualified for promotion under the regulations.

7. A teacher whose appointment has become permanent may give up the right to a permanent appointment to participate in the teacher choice compensation package under sections 168.745 to 168.750.

168.500. CAREER AND TEACHER EXCELLENCE PLAN, CAREER LADDER FORWARD FUNDING FUND ESTABLISHED — GENERAL ASSEMBLY TO APPROPRIATE FUNDS — TERMINATION OF FUND — PARTICIPATION TO BE VOLUNTARY — QUALIFICATIONS —

SPEECH PATHOLOGISTS ON CAREER PROGRAM, WHEN — FUNDING LIMITATIONS. — 1. For the purpose of providing career pay, which shall be a salary supplement, for public school teachers, which for the purpose of sections 168.500 to 168.515 shall include classroom teachers, librarians, guidance counselors and certificated teachers who hold positions as school psychological examiners, parents as teachers educators, school psychologists, special education diagnosticians and speech pathologists, and are on the district salary schedule, there is hereby created and established a career advancement program which shall be known as the "Missouri Career Development and Teacher Excellence Plan", hereinafter known as the "career plan or program". Participation by local school districts in the career advancement program established under this section shall be voluntary. The career advancement program is a matching fund program [of variable match rates]. The general assembly [shall] **may** make an annual appropriation to the excellence in education fund established under section 160.268, RSMo, for the purpose of providing the state's portion for the career advancement program. The "Career Ladder Forward Funding Fund" is hereby established in the state treasury. Beginning with fiscal year 1998 and until the career ladder forward funding fund is terminated pursuant to this subsection, the general assembly [shall] **may** appropriate funds to the career ladder forward funding fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. All interest or other gain received from investment of moneys in the fund shall be credited to the fund. All funds deposited in the fund shall be maintained in the fund until such time as the balance in the fund at the end of the fiscal year is equal to or greater than the appropriation for the career ladder program for the following year, at which time all such revenues shall be used to fund, in advance, the career ladder program for such following year and the career ladder forwarding funding fund shall thereafter be terminated.

2. The department of elementary and secondary education, at the direction of the commissioner of education, shall study and develop model career plans which shall be made available to the local school districts. These state model career plans shall:

- (1) Contain three steps or stages of career advancement;
- (2) Contain a detailed procedure for the admission of teachers to the career program;
- (3) Contain specific criteria for career step qualifications and attainment. These criteria shall clearly describe the minimum number of professional responsibilities required of the teacher at each stage of the plan and shall include reference to classroom performance evaluations performed pursuant to section 168.128;
- (4) Be consistent with the teacher certification process recommended by the Missouri advisory council of certification for educators and adopted by the department of elementary and secondary education;
- (5) Provide that public school teachers in Missouri shall become eligible to apply for admission to the career plans adopted under sections 168.500 to 168.515 after five years of public school teaching in Missouri. All teachers seeking admission to any career plan shall, as a minimum, meet the requirements necessary to obtain the first renewable professional certificate as provided in section 168.021;
- (6) Provide procedures for appealing decisions made under career plans established under sections 168.500 to 168.515.

3. The commissioner of education shall cause the department of elementary and secondary education to establish guidelines for all career plans established under this section, and criteria that must be met by any school district which seeks funding for its career plan.

4. A participating local school district may have the option of implementing a career plan developed by the department of elementary and secondary education or a local plan which has been developed with advice from teachers employed by the district and which has met with the approval of the department of elementary and secondary education. In approving local career plans, the department of elementary and secondary education may consider provisions in the plan

of the local district for recognition of teacher mobility from one district to another within this state.

5. The career plans of local school districts shall not discriminate on the basis of race, sex, religion, national origin, color, creed, or age. Participation in the career plan of a local school district is optional, and any teacher who declines to participate shall not be penalized in any way.

6. In order to receive funds under this section, a school district which is not subject to section 162.920, RSMo, must have a total levy for operating purposes which is in excess of the amount allowed in section 11(b) of article X of the Missouri Constitution; and a school district which is subject to section 162.920, RSMo, must have a total levy for operating purposes which is equal to or in excess of twenty-five cents on each hundred dollars of assessed valuation.

7. The commissioner of education shall cause the department of elementary and secondary education to regard a speech pathologist who holds both a valid certificate of license to teach and a certificate of clinical competence to have fulfilled the standards required to be placed on stage III of the career program, provided that such speech pathologist has been employed by a public school in Missouri for at least five years and is approved for placement at such stage III by the local school district.

8. Beginning in fiscal year 2012, the state portion of career ladder payments shall only be made available to local school districts if the general assembly makes an appropriation for such program. Payments authorized under sections 168.500 to 168.515 shall only be made available in a year for which a state appropriation is made. Any state appropriation shall be made prospectively in relation to the year in which work under the program is performed.

9. Nothing in this section shall be construed to prohibit a local school district from funding the program for its teachers, for work performed in years for which no state appropriation is made available.

168.515. SALARY SUPPLEMENT FOR PARTICIPANTS IN CAREER PLAN — METHOD OF DISTRIBUTION — AMOUNTS — MATCHING FUNDS, CONTRIBUTIONS — REVIEW OF CAREER PAY — TAX LEVY AUTHORIZED, WHEN — USE OF FUNDS. — 1. Each teacher selected to participate in a career plan established under sections 168.500 to 168.515, who meets the requirements of such plan, [shall] **may** receive a salary supplement, the state's share of which shall be distributed under section 163.031, RSMo, equal to the following amounts applied to the career ladder entitlement of section 163.031, RSMo:

(1) Career stage I teachers may receive up to an additional one thousand five hundred dollars per school year;

(2) Career stage II teachers may receive up to an additional three thousand dollars per school year;

(3) Career stage III teachers may receive up to an additional five thousand dollars per school year. All teachers within each stage within the same school district shall receive equal salary supplements.

2. The state [shall] **may** make payments pursuant to section 163.031, RSMo, to the local school district for the purpose of [reimbursing] **providing funding to** the local school district for the payment of any salary supplements provided for in this section, subject to the availability of funds as appropriated each year and distributed on a [variable match formula which shall] **matching basis where the percentage of state funding shall be forty percent and the percentage of local funding shall be sixty percent.** [be based on assessed valuation of the district for the second preceding school year.

3. In distributing these matching funds, school districts shall be ranked by the assessed valuation for the second preceding school year per weighted average daily attendance from the highest to the lowest and divided into three groups. Group one shall contain the highest twenty-five percent of all public school districts, groups two and three combined shall contain the remaining seventy-five percent of all public school districts. The districts in groups two and

three shall be rank-ordered from largest to smallest based on enrollment as of the last Wednesday in September during the second preceding school year, group two shall contain twenty-five percent of all public school districts that are larger on the enrollment-based rank-ordered list and group three shall contain the remaining fifty percent of all public school districts. Pursuant to subsection 4 of this section, districts in group one shall receive forty percent state funding and shall contribute sixty percent local funding, group two shall receive fifty percent state funding and shall contribute fifty percent local funding and group three shall receive sixty percent state funding and shall contribute forty percent local funding.

4. The incremental groups are as follows:

Percentage Group	Percentage of Districts	Percentage of State Funding of Local Funding
1 25%	40%	60%
2 25%	50%	50%
3 50%	60%	40%

5. Beginning in the 1996-97 school year, any school district in any group which participated in the career ladder program in 1995-96 and paid less than the local funding percentage required by subsection 4 of this section shall increase its local share of career ladder costs by five percentage points from the preceding year until the district pays the percentage share of cost required by subsection 4 of this section, and in no case shall the local funding percentage be increased by a greater amount for any year. For any district, the state payment shall not exceed the local payment times the state percentage share divided by the local percentage share. Except as provided in subsection 10 of this section, any district not participating in the 1995-96 school year or any district which interrupts its career ladder program for any subsequent year shall enter the program on the cost-sharing basis required by subsection 4 of this section.]

[6.] 3. Not less than every fourth year, beginning with calendar year 1988, the general assembly, through the joint committee established under section 160.254, RSMo, shall review the amount of the career pay provided for in this section to determine if any increases are necessary to reflect the increases in the cost of living which have occurred since the salary supplements were last reviewed or set.

[7.] 4. To participate in the salary supplement program established under this section, a school district may submit to the voters of the district a proposition to increase taxes for this purpose. If a school district's current tax rate ceiling is at or above the rate from which an increase would require a two-thirds majority, the school board may submit to the voters of the district a proposition to reduce or eliminate the amount of the levy reduction resulting from section 164.013, RSMo. If a majority of the voters voting thereon vote in favor of the proposition, the board may certify that seventy-five percent of the revenue generated from this source shall be used to implement the salary supplement program established under this section.

[8.] 5. In no case shall a school district use state funds received under this section nor local revenue generated from a tax established under subsection 7 of this section to comply with the minimum salary requirements for teachers established pursuant to section 163.172, RSMo.

9. Beginning in the 1996-97 school year, for any teacher who participated in the career program in the 1995-96 school year, continues to participate in the program thereafter, and remains qualified to receive career pay pursuant to section 168.510, the state's share of the teacher's salary supplement shall continue to be the percentage paid by the state in the 1995-96 school year, notwithstanding any provisions of subsection 4 of this section to the contrary, and the state shall continue to pay such percentage of the teacher's salary supplement until any of the following occurs:

- (1) The teacher ceases his or her participation in the program; or
- (2) The teacher suspends his or her participation in the program for any school year after the 1995-96 school year. If the teacher later resumes participation in the program, the state funding shall be subject to the provisions of subsection 4 of this section.

10. Any school district that participated in the career ladder program prior to the 2001-02 school year but ceased its participation at any time from July 1, 2001, to July 1, 2005, may resume participation in the program no later than July 1, 2006, at the same matching level, pursuant to subsections 4 and 5 of this section, for which the district qualified during its last year of participation.]

178.697. COSTS NOT TO EXCEED APPROPRIATIONS — ANNUAL SCREENINGS AND PRENATAL VISIT ELIGIBILITY, WHEN, EXPIRATION. — 1. Funding for sections 178.691 to 178.699 shall be made available pursuant to section 163.031, RSMo, and shall be subject to appropriations made for this purpose.

2. Costs of contractual arrangements shall be the obligation of the school district of residence of each preschool child. Costs of contractual arrangements shall not exceed an amount equal to an amount reimbursable to the school districts under the provisions of sections 178.691 to 178.699. [No program shall be approved or contract entered into which requires any additional payment by participants or their parents or guardians.]

3. Payments for participants for programs outlined in section 178.693 shall be uniform for all districts or public agencies.

4. Families with children under the age of kindergarten entry shall be eligible to receive annual development screenings and parents shall be eligible to receive prenatal visits under sections 178.691 to 178.699. Priority for service delivery of approved parent education programs under section 178.691 to 178.699, which includes, but is not limited to, home visits, group meetings, screenings, and service referrals, shall be given to high needs families in accordance with criteria set forth by the department of elementary and secondary education. Local school districts may establish cost sharing strategies to supplement funding for such program services. The provisions of this subsection shall expire on December 31, 2015, unless reauthorized by an act of the general assembly.

SECTION B. EMERGENCY CLAUSE. — Because of the need to provide adequate funding to public schools, the enactment of section 163.410 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 163.410 of section A of this act shall be in full force and effect upon its passage and approval or July 1, 2010, whichever occurs later.

Approved June 24, 2010

HB 1544 [SCS HCS HB 1544]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Extends the state's eligibility to receive federal extended unemployment benefit money to provide unemployed individuals compensation beyond the current unemployment benefit period

AN ACT to repeal sections 288.062 and 288.500, RSMo, and to enact in lieu thereof two new sections relating to unemployment compensation, with an emergency clause.

SECTION

A. Enacting clause.

288.062. "On" and "Off" indicators, state and national, how determined — extended benefits, defined — amount and how computed.

- 288.500. Shared work program created — definitions — plan, requirements — plan denied, submission of new plan, when — contribution by employer, how computed — benefits.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 288.062 and 288.500, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 288.062 and 288.500, to read as follows:

288.062. "ON" AND "OFF" INDICATORS, STATE AND NATIONAL, HOW DETERMINED — EXTENDED BENEFITS, DEFINED — AMOUNT AND HOW COMPUTED. — 1. As used in this section, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator, and ends with either of the following weeks, whichever occurs later:

(a) The third week after the first week for which there is a state "off" indicator; or

(b) The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state;

(2) There is a "state 'on' indicator" for this state for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this law:

(a) Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; **and**

(b) Equaled or exceeded four percent for weeks beginning prior to or on September 25, 1982, or five percent for weeks beginning after September 25, 1982; except that, if the rate of insured unemployment as contemplated in this subdivision equals or exceeds five percent for weeks beginning prior to or on September 25, 1982, or six percent for weeks beginning after September 25, 1982, the determination of an "on" indicator shall be made under this subdivision as if this subdivision did not contain the provisions of paragraph (a) of this subdivision; [and] **or**

(c) With respect to weeks of unemployment beginning on or after February 1, 2009, and ending on or before [December 5, 2009] **the week ending four weeks prior to the last week of unemployment for which one hundred percent federal sharing is available under the provisions of Public Law 111-5, Section 2005(a) or March 3, 2011, whichever should occur first:**

a. The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds six and one-half percent; and

b. The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in subparagraph a. of this paragraph, equals or exceeds one hundred and ten percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years;

(3) There is a "state 'off' indicator" for this state for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this law:

(a) Was less than one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; or

(b) Was less than four percent (five percent for weeks beginning after September 25, 1982); except, there shall not be an "off" indicator for any week in which an "on" indicator as contemplated in paragraph (b) of subdivision (2) of this subsection exists;

(4) "Rate of insured unemployment", for the purposes of subdivisions (2) and (3) of this subsection, means the percentage derived by dividing:

(a) The average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the director on the basis of his or her reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period;

(5) "Regular benefits" means benefits payable to an individual under this law or under any other state law (including benefits payable to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85) other than extended benefits;

(6) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his or her eligibility period;

(7) "Eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period;

(8) "Exhaustee" means an individual who, with respect to any week of unemployment in his or her eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him or her under this law or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85) in his or her current benefit year that includes such week; provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him or her although as a result of a pending appeal with respect to wages or employment, or both, that were not considered in the original monetary determination in his or her benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) Has received, prior to such week, all the regular compensation available to him or her in his or her current benefit year that includes such week under the unemployment compensation law of the state in which he or she files a claim for extended compensation or the unemployment compensation law of any other state after a cancellation of some or all of his or her wage credits or the partial or total reduction of his or her right to regular compensation; or

(c) His or her benefit year having expired prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular compensation by reason of a state law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1954; and

(d) a. Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

b. Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law he or she is considered an exhaustee;

(9) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954.

2. Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the director, the provisions of this law which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

3. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the deputy finds that with respect to such week:

(1) He or she is an exhaustee as defined in subdivision (8) of subsection 1 of this section;

(2) He or she has satisfied the requirements of this law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; except that, in the case of a claim for benefits filed in another state, which is acting as an agent state under the Interstate Benefits Payment Plan as provided by regulation, which claim is based on benefit credits accumulated in this state, eligibility for extended benefits shall be limited to the first two compensable weeks unless there is an extended benefit period in effect in both this state and the agent state in which the claim was filed;

(3) The other provisions of this law notwithstanding, as to new extended benefit claims filed after September 25, 1982, an individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the deputy finds that the total wages in the base period of his or her benefit year equal at least one and one-half times the wages paid during that quarter of his or her base period in which his or her wages were highest.

4. A claimant shall not be eligible for extended benefits following any disqualification imposed under subsection 1 or 2 of section 288.050, unless subsequent to the effective date of the disqualification, the claimant has been employed during at least four weeks and has earned wages equal to at least four times his or her weekly benefit amount.

5. For the purposes of determining eligibility for extended benefits, the term "suitable work" means any work which is within such individual's capabilities except that, if the individual furnishes satisfactory evidence that the prospects for obtaining work in his or her customary occupation within a reasonably short period are good, the determination of what constitutes suitable work shall be made in accordance with the provisions of subdivision (3) of subsection 1 of section 288.050. If a deputy finds that a person who is claiming extended benefits has refused to accept or to apply for suitable work, as defined in this subsection, or has failed to actively engage in seeking work subsequent to the effective date of his or her claim for extended benefits, that person shall be ineligible for extended benefits for the period beginning with the first day of the week in which such refusal or failure occurred. That ineligibility shall remain in effect until the person has been employed for at least four weeks after the week in which the refusal or failure occurred and has earned wages equal to at least four times his or her weekly benefit amount.

6. Extended benefits shall not be denied under subsection 5 of this section to any individual for any week by reason of a failure to accept an offer of or apply for suitable work if:

(1) The gross average weekly remuneration for such work does not exceed the individual's weekly benefit amount plus the amount of any supplemental unemployment benefits, as defined in section 501(c)(17)(d) of the Internal Revenue Code, payable to such individual for such week; or

(2) The position was not offered to such individual in writing or was not listed with the state employment service; or

(3) If the remuneration for the work offered is less than the minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, without regard to any exemption or any applicable state or local minimum wage, whichever is the greater.

7. For the purposes of this section, an individual shall be considered as actively engaged in seeking work during any week with respect to which the individual has engaged in a

systematic and sustained effort to obtain work as indicated by tangible evidence which the individual provides to the division.

8. Extended benefits shall not be denied for failure to apply for or to accept suitable work if such failure would not result in a denial of benefits under subdivision (3) of subsection 1 of section 288.050 to the extent that the provisions of subdivision (3) of subsection 1 of section 288.050 are not inconsistent with the provisions of subsections 5 and 6 of this section.

9. The division shall refer any claimant entitled to extended benefits under this law to any suitable work which meets the criteria established in subsections 5 and 6 of this section.

10. Notwithstanding other provisions of this chapter to the contrary, as to claims of extended benefits, subsections 4 to 9 of this section shall not apply to weeks of unemployment beginning after March 6, 1993, and before January 1, 1995. Entitlement to extended benefits for weeks beginning after March 6, 1993, and before January 1, 1995, shall be determined in accordance with provisions of this chapter not excluded by this subsection.

11. "Weekly extended benefit amount." The weekly extended benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year, reduced by a percentage equal to the percentage of the reduction in federal payments to states under Section 204 of the Federal State Extended Unemployment Compensation Act of 1970, in accord with any order issued under any law of the United States. Such weekly benefit amount, if not a multiple of one dollar, shall be reduced to the nearest lower full dollar amount.

12. (1) "Total extended benefit amount." The total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the lesser of the following amounts:

(a) Fifty percent of the total amount of regular benefits which were payable to him or her under this law in his or her applicable benefit year;

(b) Thirteen times his or her weekly benefit amount which was payable to him or her under this law for a week of total unemployment in the applicable benefit year.

(2) Notwithstanding subdivision (1) of this subsection, during any fiscal year in which federal payments to states under Section 204 of the Federal State Extended Unemployment Compensation Act of 1970 are reduced under any order issued under any law of the United States, the total extended benefit amount payable to an individual with respect to his or her applicable benefit year shall be reduced by an amount equal to the aggregate of the reductions under subsection 11 of this section in the weekly amounts paid to the individual.

(3) Notwithstanding the other provisions of this subsection, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this subdivision, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received trade readjustment allowances under the Trade Act of 1974, as amended, within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(4) (a) Effective with respect to weeks beginning in a high unemployment period, subdivision (1) of this subsection shall be applied by substituting:

a. Eighty percent for fifty percent in paragraph (a) of subdivision (1) of this subsection; and

b. Twenty times for thirteen times in paragraph (b) of subdivision (1) of this subsection.

(b) For purposes of paragraph (a) of this subdivision, the term "high unemployment period" means any period during which an extended benefit period would be in effect if subparagraph a. of paragraph (c) of subdivision (2) of subsection 1 of this section were applied by substituting eight percent for six and one-half percent.

13. (1) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the director shall make an appropriate public announcement.

(2) Computations required by the provisions of subdivision (4) of subsection 1 of this

section, shall be made by the director, in accordance with regulations prescribed by the United States Secretary of Labor.

288.500. SHARED WORK PROGRAM CREATED — DEFINITIONS — PLAN, REQUIREMENTS — PLAN DENIED, SUBMISSION OF NEW PLAN, WHEN — CONTRIBUTION BY EMPLOYER, HOW COMPUTED — BENEFITS. — 1. There is created under this section a voluntary "Shared Work Unemployment Compensation Program". In connection therewith, the division may adopt rules and establish procedures, not inconsistent with this section, which are necessary to administer this program.

2. As used in this section, the following terms mean:

(1) "Affected unit", a specified department, shift, or other unit of three or more employees which is designated by an employer to participate in a shared work plan;

(2) "Division", the division of employment security;

(3) "Fringe benefit", health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer;

(4) "Normal weekly hours of work", as to any individual, the lesser of forty hours or the average obtained by dividing the total number of hours worked per week in the preceding twelve-week period by the number twelve;

(5) "Participating employee", an employee who works a reduced number of hours under a shared work plan;

(6) "Participating employer", an employer who has a shared work plan in effect;

(7) "Shared work benefit", an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan;

(8) "Shared work plan", a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work;

(9) "Shared work unemployment compensation program", a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

3. An employer who wishes to participate in the shared work unemployment compensation program established under this section shall submit a written shared work plan in a form acceptable to the division for approval. As a condition for approval by the division, a participating employer shall agree to furnish the division with reports relating to the operation of the shared work plan as requested by the division. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the division and shall report the findings to the division.

4. The division may approve a shared work plan if:

(1) The employer has filed all reports required to be filed under this chapter for all past and current periods and has paid all contributions due for all past and current periods;

(2) The shared work plan applies to and identifies a specified affected unit;

(3) The employees in the affected unit are identified by name and Social Security number;

(4) The shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than twenty percent and not more than forty percent;

(5) The shared work plan applies to at least ten percent of the employees in the affected unit;

(6) The shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit; and

(7) The employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of temporary layoffs that would affect at least ten percent of the employees in the affected unit and that would result in an equivalent reduction in work hours.

5. If any of the employees who participate in a shared work plan under this section are covered by a collective bargaining agreement, the shared work plan shall be approved in writing by the collective bargaining agent.

6. No shared work plan which will subsidize seasonal employers during the off-season or subsidize employers, at least fifty percent of the employees of which have normal weekly hours of work equaling thirty-two hours or less, shall be approved by the division. No shared work plan benefits will be initiated when the reduced hours coincide with holiday earnings already committed to be paid by the employer. Shared work plan benefits may not be denied in any week containing a holiday for which holiday earnings are committed to be paid by the employer unless the shared work benefits to be paid are for the same hours in the same day as the holiday earnings.

7. The division shall approve or deny a shared work plan not later than the thirtieth day after the day on which the shared work plan is received by the division. The division shall approve or deny a plan in writing. If the division denies a plan, the division shall notify the employer of the reasons for the denial. Approval or denial of a plan by the division shall be final and such determination shall be subject to review in the manner otherwise provided by law. If approval of a plan is denied by the division, the employer may submit a new plan to the division for consideration no sooner than forty-five calendar days following the date on which the division disapproved the employer's previously submitted plan.

8. The division may revoke approval of a shared work plan and terminate the plan if it determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program, or if it is determined by the division that the approval of the shared work plan was based, in whole or in part, upon information contained in the plan which was either false or substantially misleading.

9. Each shared work plan approved by the division shall become effective on the first day of the week in which it is approved by the division or on a later date as specified in the shared work plan. Each shared work plan approved by the division shall expire on the last day of the twelfth full calendar month after the effective date of such shared work plan.

10. An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work plan as originally approved by the division. The employer shall report the changes made to the plan in writing to the division at least seven days before implementing such changes. The division shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection 4 of this section. The approval of a modified shared work plan shall not, under any circumstances, affect the expiration date originally set for the shared work plan. If modifications cause the shared work plan to fail to meet the requirements for approval, the division shall deny approval of the modifications as provided in subsection 7 of this section.

11. Notwithstanding any other provisions of this chapter, an individual is unemployed for the purposes of this section in any week in which the individual, as an employee in an affected unit, works less than his normal weekly hours of work in accordance with an approved shared work plan in effect for that week.

12. An individual who is otherwise entitled to receive regular unemployment insurance benefits under this chapter shall be eligible to receive shared work benefits with respect to any week in which the division finds that:

(1) The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

(2) Notwithstanding the provisions of subdivision (2) of subsection 1 of section 288.040, the individual is able to work, available for work and works all available hours with the participating employer;

(3) The individual's normal weekly hours of work have been reduced by at least twenty percent but not more than forty percent, with a corresponding reduction in wages; and

(4) The individual has served a waiting week as defined in section 288.030.

13. A waiting week served under the provisions of subdivision (3) of subsection 1 of section 288.040 shall serve to meet the requirements of subdivision (4) of subsection 12 of this section and a waiting week served under the provisions of subdivision (4) of subsection 12 of this section shall serve to meet the requirements of section 288.040. Notwithstanding any other provisions of this chapter, an individual who files a new initial claim during the pendency of the twelve-month period in which a shared work plan is in effect shall serve a waiting week whether or not the individual has served a waiting week under this subsection.

14. The division shall not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of this chapter that relates to availability for work, active search for work, or refusal to apply for or accept work with an employer other than the participating employer under the plan.

15. The division shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment less any deductible amounts under this chapter except wages received from any employer, multiplied by the full percentage of reduction in the individual's hours as set forth in the employer's shared work plan. If the shared work benefit amount calculated under this subsection is not a multiple of one dollar, the division shall round the amount so calculated to the next lowest multiple of one dollar. An individual shall be ineligible for shared work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared work plan.

16. An individual shall not be entitled to receive shared work benefits and regular unemployment compensation benefits in an aggregate amount which exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided under section 288.038. Notwithstanding any other provisions of this chapter, an individual shall not be eligible to receive shared work benefits for more than [twenty-six] **fifty-two** calendar weeks during the twelve-month period of the shared work plan. No week shall be counted as a week of unemployment for the purposes of this subsection unless it occurs within the twelve-month period of the shared work plan.

17. Notwithstanding any other provision of this chapter, all benefits paid under a shared work plan which are chargeable to the participating employer or any other base period employer of a participating employee shall be charged to the account of the participating employer under the plan.

18. An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under section 288.062 and is entitled to receive extended benefits under section 288.062 if the individual is otherwise eligible under that section.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to help Missourians during economic hardship, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved March 4, 2010

HB 1559 [HB 1559]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the dates for submitting an annual status report and an independent audit to the consolidated library district, county commission, and the Missouri State Library

AN ACT to repeal section 182.647, RSMo, and to enact in lieu thereof one new section relating to library reports.

SECTION

A. Enacting clause.

182.647. Bonds of employees — records and reports required.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 182.647, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 182.647, to read as follows:

182.647. BONDS OF EMPLOYEES — RECORDS AND REPORTS REQUIRED. — 1. The treasurer, the librarian and other employees as designated by the board, before entering upon the discharge of their duties as such, shall enter into bond or bonds with a corporate surety to be approved by the board of trustees in such amount as may be fixed by the board, conditioned that they will render a faithful and just account of all money that comes into their hands, and otherwise perform the duties of their office according to law. The consolidated public library district shall pay the premium for the bond or bonds from its operating fund. A copy of such bond or bonds shall be filed with the treasurer of the board and clerk for each county included within the consolidated public library district. In case of a breach of the conditions of the bond or bonds the board or any taxpayer of the consolidated public library district may cause suit to be brought thereon. The suit shall be prosecuted in the name of the state of Missouri at the relation of and for use of the proper consolidated public library district.

2. The librarian, for and on behalf of the board, shall keep or cause to be kept financial records and accounts according to generally accepted accounting standards, and shall furnish to the board or any member thereof the financial records and accounts, or summaries thereof, that the board or any member thereof may request.

3. On or before the [thirty-first] **thirtieth** day of [August] **September** of each year, the librarian shall make a report to the board, stating the condition of the library and its services as of the thirtieth day of June of the preceding fiscal year. This report shall be accompanied by an audit conducted by an independent auditing firm. On or before the [thirtieth] **thirty-first** day of [September] **October**, the reports shall be submitted to the county commissions and county executive officers and Missouri state library commission by the board of trustees of the consolidated public library district.

Approved July 7, 2010

HB 1595 [HB 1595]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Revises the definition of "project" as it relates to industrial development corporations to include the construction, extension, and improvement of public roads

AN ACT to repeal section 349.010, RSMo, and to enact in lieu thereof one new section relating to projects by industrial development corporations.

SECTION

A. Enacting clause.

349.010. Definitions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 349.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 349.010, to read as follows:

349.010. DEFINITIONS. — As used in sections 349.010 to 349.100, unless the context otherwise requires, the following words and terms shall have the meanings indicated:

(1) "Corporations" means any authority organized pursuant to the provisions of sections 349.010 to 349.100.

(2) "County and municipality". "County" means any county in the state. "Municipality" means any city, incorporated town or village in the state.

(3) "Governing body" shall mean the board or body in which the general legislative powers of the county or municipality are vested.

(4) "Project" means the **construction, extension, and improvement of public roads or** the purchase, construction, extension and improvement of plants, buildings, structures, or facilities, whether or not now in existence, including the real estate, used or to be used as a factory, assembly plant, manufacturing plant, processing plant, fabricating plant, distribution center, warehouse building, public facility, waterborne vessels excepting commercial passenger vessels for hire in a city not within a county built prior to 1950, office building, for-profit or not-for-profit hospital, not-for-profit nursing or retirement facility or combination thereof, physical fitness, recreational, indoor and resident outdoor facilities operated by not-for-profit organizations, commercial or agricultural facility, or facilities for the prevention, reduction or control of pollution. Included in all of the above shall be any required fixtures, equipment and machinery. Excluded are facilities designed for the sale or distribution to the public of electricity, gas, water or telephone, together with any other facilities for cable television and those commonly classified as public utilities. Projects of a municipal authority must be located wholly within the incorporated limits of the municipality except that such projects may be located outside the corporate limits of such municipality and within the county in which the municipality is located with permission of the governing body of the county. Projects of a county authority must be located within an unincorporated area of such county except that such projects may be located within the incorporated limits of a municipality within such county, when approved by the governing body of the municipality.

Approved July 7, 2010

HB 1612 [SCS HB 1612]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding common sewer districts

AN ACT to repeal sections 204.300, 204.472, 204.571, and 250.233, RSMo, and to enact in lieu thereof four new sections relating to sewer districts.

SECTION

- A. Enacting clause.
- 204.300. Trustees, how appointed, qualifications, expenses reimbursement, compensation — registered professional engineer, may employ.
- 204.472. Sewer service to be provided by agreement for certain annexed areas, procedure (Poplar Bluff, Butler County, counties of the third classification).
- 204.571. Authorized representative, advisory board — organization — recommendations.
- 250.233. Charges for sewer services — notice and public hearing required.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 204.300, 204.472, 204.571, and 250.233, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 204.300, 204.472, 204.571, and 250.233, to read as follows:

204.300. TRUSTEES, HOW APPOINTED, QUALIFICATIONS, EXPENSES REIMBURSEMENT, COMPENSATION — REGISTERED PROFESSIONAL ENGINEER, MAY EMPLOY. — 1. In all counties except counties of the first classification which have a charter form of government and which contain all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, the governing body of the county, by resolution, order, or ordinance, shall appoint five trustees, the majority of whom shall reside within the boundaries of the district. In the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive officer of the adjoining county shall be an additional member of the appointed board of trustees. The trustees may be paid reasonable compensation by the district for their services; except that, any compensation schedule shall be approved by resolution of the board of trustees. The board of trustees shall be responsible for the control and operation of the sewer district. The term of each board member shall be five years; except that, members of the governing body of the county sitting upon the board shall not serve beyond the expiration of their term as members of such governing body of the county. The first board of trustees shall be appointed for terms ranging from one to five years so as to establish one vacancy per year thereafter. **If the governing body of the county with the right of appointment under this section fails to appoint a trustee to fill a vacancy on the board within sixty days after receiving written notice from the common sewer district of the existence of such vacancy, then the vacancy may be filled by a majority of the remaining members then in office of the board of trustees of such common sewer district.** The trustees may be paid reasonable compensation by the district for their services; except that, any compensation schedule shall be approved by resolution, order, or ordinance of the governing body of the county. Any and all expenses incurred in the performance of their duties shall be reimbursed by the district. The board of trustees shall have the power to employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees shall select a treasurer, who may be either a member of the board of trustees or another qualified individual. The treasurer selected by the board shall give such bond as may be required by the board of trustees. The board of trustees shall appoint

the sewer engineer for the county in which the greater part of the district lies as chief engineer for the district, and the sewer engineer shall have the same powers, responsibilities and duties in regard to planning, construction and maintenance of the sewers, and treatment facilities of the district as he now has by virtue of law in regard to the sewer facilities within the county for which he is elected. If there is no sewer engineer in the county in which the greater part of the district lies, the board of trustees may employ a registered professional engineer as chief engineer for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district. The provisions of this subsection shall not apply to any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants.

2. In any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, and in any county of the first classification without a charter form of government and which has a population of more than sixty-three thousand seven hundred but less than seventy-five thousand, there shall be [an eight-member] **a ten-member** board of trustees to consist of the county executive, the mayors of the [four] **five** cities constituting the largest users by flow during the previous fiscal year, the mayors of [two] **three** cities which are not among the [four] **five** largest users and who are members of the advisory board of the district established pursuant to section 204.310, and one member of the county legislature to be appointed by the county executive, with the concurrence of the county legislature. If the county executive does not appoint such members of the county legislature to the board of trustees within sixty days, the county legislature shall make the appointments. The advisory board members shall be appointed annually by the advisory board. In the event the district extends into any county bordering the county in which the greater portion of the district lies, the number of members on the board of trustees shall be increased to a total of [nine] **eleven** and the presiding commissioner or county executive of the adjoining county shall be an additional member of the board of trustees. The trustees shall receive no compensation for their services, but may be compensated for their reasonable expenses normally incurred in the performance of their duties. The board of trustees may employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees may employ and fix the duties and compensation of an administrator for the district. The administrator shall be the chief executive officer of the district subject to the supervision and direction of the board of trustees and shall exercise the powers, responsibilities and duties heretofore exercised by the chief engineer prior to September 28, 1983. The administrator of the district may, with the approval of the board of trustees, retain consulting engineers for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district. The provisions of this subsection shall only apply to counties of the first classification which have a charter form of government and which contain all or any portion of a city with a population of three hundred fifty thousand or more inhabitants.

204.472. SEWER SERVICE TO BE PROVIDED BY AGREEMENT FOR CERTAIN ANNEXED AREAS, PROCEDURE (POPLAR BLUFF, BUTLER COUNTY, COUNTIES OF THE THIRD CLASSIFICATION). — 1. **(1)** Whenever all or any part of a territory located within a sewer district that is located in any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants is included by annexation within the corporate limits of any city of the third classification with more than sixteen thousand six hundred but less than sixteen thousand seven hundred inhabitants, but is not receiving sewer service from such district or city at the time of such annexation, the city and the board of trustees of the district may, within six months after such annexation becomes effective, develop an agreement to provide sewer service to the annexed territory. Such an agreement may also be developed for territory that was annexed

between January 1, 1996, and August 28, 2002, but was not receiving sewer service from such district or such city on August 28, 2002. For the purposes of this section, "not receiving sewer service" shall mean that no sewer services are being sold within the annexed territory by such district or city. If the city and the board reach an agreement that detaches any territory from such district, the agreement shall be submitted to the circuit court having jurisdiction over the major portion, and the circuit court shall make an order and judgment detaching the territory described in the agreement from the remainder of the district and stating the boundary lines of the district after such detachment. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located. If an agreement is developed between a city and a sewer district pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

(2) Whenever all or any part of a territory located within a sewer district that is located in any county of the third classification is included by annexation within the corporate limits of any city, but is not receiving sewer service from such district or city at the time of such annexation, the city and the board of trustees of the district may, within six months after such annexation becomes effective, develop an agreement to provide sewer service to the annexed territory. Such an agreement may also be developed for territory that was annexed prior to August 28, 2010, but was not receiving sewer service from such district or such city as of August 28, 2010. For the purposes of this section, "not receiving sewer service" shall mean that no sewer services are being sold within the annexed territory by such district or city. If the city and the board reach an agreement that detaches any territory from such district, the agreement shall be submitted to the circuit court having jurisdiction over the major portion, and the circuit court shall make an order and judgment detaching the territory described in the agreement from the remainder of the district and stating the boundary lines of the district after such detachment. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located. If an agreement is developed between a city and a sewer district pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

2. In the event that the board of trustees of such district and the city cannot reach such an agreement, an application may be made by the board or the city to the circuit court requesting that three commissioners develop such an agreement. Such application shall include the name of one commissioner appointed by the applying party. The second party shall appoint one commissioner within thirty days of the service of the application upon the second party. If the second party fails to appoint a commissioner within such time period, the circuit court shall appoint a commissioner on behalf of the second party. Such two named commissioners may agree to appoint a third disinterested commissioner within thirty days after the appointment of the second commissioner. In the event that the two named commissioners cannot agree on or fail to appoint the third disinterested commissioner within thirty days after the appointment of the second commissioner, the circuit court shall appoint the third disinterested commissioner.

3. Upon the filing of such application and the appointment of three such commissioners, the circuit court shall set a time for one or more hearings and shall order a public notice including the nature of the application, the annexed area affected, the names of the commissioners, and the time and place of such hearings, to be published for three weeks consecutively in a newspaper published in the county in which the application is pending, the last publication to be not more than seven days before the date set for the first hearing.

4. The commissioners shall develop an agreement between the district and the city to provide sewer service to the annexed territory. In developing the agreement, the commissioners

shall consider information presented to them at hearings and any other information at their disposal including, but not limited to:

- (1) The estimated future loss of revenue and costs for the sewer district related to the agreement;
- (2) The amount of indebtedness of the sewer district within the annexed territory;
- (3) Any contractual obligations of the sewer district within the annexed area; and
- (4) The effect of the agreement on the sewer rates of the district.

The agreement shall also include a recommendation for the apportionment of costs incurred pursuant to subsections 2 to 8 of this section, including reasonable compensation for the commissioners, between the city and the district.

5. If the circuit court finds that the agreement provides for necessary sewer service in the annexed territory, then such agreement shall be fully effective upon approval by the circuit court. The circuit court shall also review the recommended apportionment of court costs incurred and the reasonable compensation for the commissioners and affirm or modify such recommendations.

6. The order and judgment of the circuit court shall be subject to appeal as provided by law.

7. If the circuit court approves a detachment as part of the territorial agreement, it shall make its order and judgment detaching the territory described in the application from the remainder of the district and stating the boundary lines of the district after such detachment.

8. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located.

9. The proportion of the sum of all outstanding bonds and debt, with interest thereon, that is required to be paid to the sewer district pursuant to this section, shall be the same as the proportion of the assessed valuation of the real and tangible personal property within the area sought to be detached bears to the assessed valuation of all of the real and tangible personal property within the entire area of the sewer district.

204.571. AUTHORIZED REPRESENTATIVE, ADVISORY BOARD — ORGANIZATION — RECOMMENDATIONS. — An authorized representative, not a member of the common sewer district's advisory board under section 204.310, from each political subdivision which lies partially within a sewer subdistrict formed pursuant to sections 204.565 to 204.573 and which operates or is served by a sewage collection system, together with the representatives of all other such political subdivisions and of each county having territory within the subdistrict, shall constitute an advisory board for the subdistrict. The advisory board shall organize by electing one of its members as chairman, one as vice chairman, and one as a representative to the common sewer district's advisory board formed pursuant to section 204.310, **however, if the subdistrict advisory board consists of less than three members, then one subdistrict advisory board member may serve in more than one such capacity.** The board of trustees of the common sewer district shall keep the subdistrict advisory board informed, either directly or through the district advisory board, as to all phases of the planning and operations of the subdistrict, and the subdistrict advisory board shall make such recommendations to the common sewer district advisory board as the subdistrict board deems advisable with regard to the construction and operation of sewers and facilities in the subdistrict. **If a county or political subdivision with the right of appointment under this section fails to appoint any subdistrict advisory board member within sixty days after receiving a written request from the common sewer district, then the board of trustees of the common sewer district may make such appointment.**

250.233. CHARGES FOR SEWER SERVICES — NOTICE AND PUBLIC HEARING REQUIRED. — Any city, town [or], village, or sewer district operating a sewerage system or waterworks

may establish, make and collect charges for sewerage services, including tap-on fees. The charges may be set as a flat fee or based upon the amount of water supplied to the premises and shall be in addition to those charges which may be levied and collected for maintenance, repair and administration, including debt service expenses. Any private water company or public water supply district supplying water to the premises located within said city, town [or], village, **or sewer district** shall, at reasonable charge upon reasonable request, make available to such city, town [or], village, **or sewer district** its records and books so that such city, town [or], village, **or sewer district** may obtain therefrom such data as may be necessary to calculate the charges for sewer service. Prior to establishing any such sewer charges, public hearings shall be held thereon and at least thirty days' notice shall be given thereof.

Approved July 7, 2010

HB 1643 [HB 1643]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding certain documents recorded with the county recorder of deeds

AN ACT to repeal sections 193.265 and 429.110, RSMo, and to enact in lieu thereof four new sections relating to recording fees.

SECTION

- A. Enacting clause.
- 59.003. Requests for records dated after December 31, 1969 to be made at original recorder's office.
- 59.318. Donation for homeless, recording of certain instruments (Jackson County).
- 193.265. Fees for certification and other services — distribution — services free, when.
- 429.110. When owner nonresident — notice, how given.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 193.265 and 429.110, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 59.003, 59.318, 193.265 and 429.110, to read as follows:

59.003. REQUESTS FOR RECORDS DATED AFTER DECEMBER 31, 1969 TO BE MADE AT ORIGINAL RECORDER'S OFFICE. — All requests for records filed or recorded by the recorder of deeds under this chapter dated after December 31, 1969, shall be made to the office of the recorder of deeds in which the record was originally recorded.

59.318. DONATION FOR HOMELESS, RECORDING OF CERTAIN INSTRUMENTS (JACKSON COUNTY). — A donation of one dollar may be collected by the recorder of deeds for any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, over and above any fees required by law, when any instruments specified in subdivisions (3) and (5) of section 59.330 are recorded. The donations collected for the recorded instrument shall be forwarded monthly by the recorder of deeds to the county treasurer, and the donations so forwarded shall be deposited by the county treasurer into the housing resource commission fund to assist homeless families and provide financial assistance to organizations addressing homelessness in the county. The recorder shall provide a check-off box for such donation on the application form.

193.265. FEES FOR CERTIFICATION AND OTHER SERVICES — DISTRIBUTION — SERVICES FREE, WHEN. — 1. For the issuance of a certification or copy of a death record, the applicant shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. All fees shall be deposited to the state department of revenue. Beginning August 28, 2004, for each vital records fee collected, the director of revenue shall credit four dollars to the general revenue fund, five dollars to the children's trust fund, one dollar shall be credited to the endowed care cemetery audit fund, and three dollars for the first copy of death records and five dollars for birth, marriage, divorce, and fetal death records shall be credited to the Missouri public services health fund established in section 192.900, RSMo. Money in the endowed care cemetery audit fund shall be available by appropriation to the division of professional registration to pay its expenses in administering sections 214.270 to 214.410, RSMo. All interest earned on money deposited in the endowed care cemetery audit fund shall be credited to the endowed care cemetery fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money placed in the endowed care cemetery audit fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the endowed care cemetery audit fund for the preceding fiscal year. The money deposited in the public health services fund under this section shall be deposited in a separate account in the fund, and moneys in such account, upon appropriation, shall be used to automate and improve the state vital records system, and develop and maintain an electronic birth and death registration system which shall be implemented no later than December 31, 2009. For any search of the files and records, when no record is found, the state shall be entitled to a fee equal to the amount for a certification of a vital record for a five-year search to be paid by the applicant. For the processing of each legitimation, adoption, court order or recording after the registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a certification of a vital record. Except whenever a certified copy or copies of a vital record is required to perfect any claim of any person on relief, or any dependent of any person who was on relief for any claim upon the government of the state or United States, the state registrar shall, upon request, furnish a certified copy or so many certified copies as are necessary, without any fee or compensation therefor.

2. For the issuance of a certification of a death record by the local registrar, the applicant shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars; **except that, in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, a donation of one dollar may be collected by the local registrar over and above any fees required by law when a certification or copy of any marriage license or birth certificate is provided, with such donations collected to be forwarded monthly by the local registrar to the county treasurer of such county and the donations so forwarded to be deposited by the county treasurer into the housing resource commission fund to assist homeless families and provide financial assistance to organizations addressing homelessness in such county. The local registrar shall include a check-off box on the application form for such copies.** All fees, other than the donations collected in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants for marriage licenses and birth certificates, shall be deposited to the official city or county health agency. A certified copy of a death record by the local registrar can only be issued within twenty-four hours of receipt of the record by the local registrar. Computer-generated certifications of death records may be issued by the local registrar after twenty-four hours of receipt of the records. The fees paid to the official county health agency shall be retained by the local agency for local public health purposes.

429.110. WHEN OWNER NONRESIDENT — NOTICE, HOW GIVEN. — Whenever property is sought to be charged with a lien under sections 429.010 to 429.340, and the owner of the property so sought to be charged shall not be a resident of this state, or shall have no agent in the county in which said property is situate, or when such owner shall be a resident of the state, but conceals himself, or has absconded, or absents himself from his usual place of abode, so that the notice required by section 429.100 cannot be served upon him, then, and in every such case, such notice may be [filed] **recorded** with the recorder of deeds of the county in which such property is situate, and when [filed] **recorded** shall have like effect as if served upon such owner or his agent in the manner contemplated by section 429.100]; and a copy of such notice so filed, together with the certificate of such recorder of deeds that the same is a correct copy of the notice so filed, shall be received in all courts of this state as evidence of the service, as herein provided, of such notice; and the recorder of deeds in each county of this state shall receive, file and keep every such notice so presented to him for filing, and shall further record the same at length in a separate book appropriately entitled; and for such service so performed, such recorder shall receive for each notice the sum of twenty-five cents, and for each copy so certified as aforesaid of each of said notices, shall receive the sum of fifty cents, to be paid by the party so filing or procuring such certified copy, as the case may be, and the costs of filing and of one certified copy] . **Such notice shall be accompanied by an applicable fee for recording and** shall be taxed as costs in any lien suit to which the same pertains, to abide the result of the suit.

Approved July 1, 2010

HB 1654 [HB 1654]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires a notice of garnishment and a writ of sequestration to contain only the last four digits of a person's Social Security number instead of the full number

AN ACT to repeal section 525.233, RSMo, and to enact in lieu thereof one new section relating to requiring the notice of garnishment and writ of sequestration to contain only the last four digits of the federal taxpayer identification number.

SECTION

A. Enacting clause.

525.233. Notice of garnishment and writ of sequestration to contain federal taxpayer identification number — failure to comply, effect.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 525.233, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 525.233, to read as follows:

525.233. NOTICE OF GARNISHMENT AND WRIT OF SEQUESTRATION TO CONTAIN FEDERAL TAXPAYER IDENTIFICATION NUMBER — FAILURE TO COMPLY, EFFECT. — The notice of garnishment and the writ of sequestration shall contain **only the last four digits of the federal taxpayer identification number**, when available, on the judgment debtor. When the **last four digits of the federal taxpayer identification number** is omitted from the notice of garnishment or the writ of sequestration the garnishee shall not be held liable for withholding from the incorrect debtor by the creditor garnishing the funds. The creditor shall not have any action against the garnishee, when the **last four digits of the federal taxpayer identification**

number is omitted from the notice of garnishment or the writ of sequestration or does not match the **last four digits of the** federal taxpayer identification, for failure to withhold from any person the amount stated in the notice of garnishment or the writ of sequestration, except to serve a notice of garnishment or writ of sequestration for the original amount to the garnishee with the correct **last four digits of the** federal taxpayer identification number.

Approved June 23, 2010

HB 1662 [HB 1662]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the State Veterinarian to restrict the movement of animals or birds under investigation for the presence or suspected presence of a toxin

AN ACT to repeal sections 267.565 and 267.600, RSMo, and to enact in lieu thereof two new sections relating to diseased animals.

SECTION

A. Enacting clause.

267.565. Definitions.

267.600. Animals under test or investigation not to be removed — holding period permitted, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 267.565 and 267.600, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 267.565 and 267.600, to read as follows:

267.565. DEFINITIONS. — Unless the context requires otherwise, as used in sections 267.560 to 267.660, the following terms mean:

(1) "Accredited approved veterinarian", a veterinarian who has been accredited by the United States Department of Agriculture and approved by the state department of agriculture and who is duly licensed under the laws of Missouri to engage in the practice of veterinary medicine, or a veterinarian domiciled and practicing veterinary medicine in a state other than Missouri, duly licensed under laws of the state in which he resides, accredited by the United States Department of Agriculture, and approved by the chief livestock sanitary official of that state;

(2) "Animal", an animal of the equine, bovine, porcine, ovine, caprine, or species domesticated or semidomesticated;

(3) "Approved laboratory", a laboratory approved by the department;

(4) "Approved vaccine" or "bacterin", a vaccine or bacterin produced under the license of the United States Department of Agriculture and approved by the department for the immunization of animals against infectious and contagious disease;

(5) "Bird", a bird of the avian species;

(6) "Certified free herd", a herd of cattle, swine, goats or a flock of sheep or birds which has met the requirements and the conditions set forth in sections 267.560 to 267.660 and as required by the department and as recommended by the United States Department of Agriculture, and for such status for a specific disease and for a herd of cattle, swine, goats or flock of sheep or birds in another state which has met those minimum requirements and conditions under the supervision of the livestock sanitary authority of the state in which said

animals or birds are domiciled, and as recommended by the United States Department of Agriculture for such status for a specific disease;

(7) **"Condition", upon examination of any animal or bird in this state by the state veterinarian or his or her duly authorized representative, the findings of which indicate the presence or suspected presence of a toxin in such animal or bird that warrants further examination or observation for confirmation of the presence or nonpresence of such toxin;**

(8) "Department" or "department of agriculture", the department of agriculture of the state of Missouri, and when by this law the said department of agriculture is charged to perform a duty, it shall be understood to authorize the performance of such duty by the director of agriculture of the state of Missouri, or by the state veterinarian of the state of Missouri or his duly authorized deputies acting under the supervision of the director of agriculture;

(9) **"Holding period", restriction of movement of animals or birds into or out of a premise under such terms and conditions as may be designated by order of the state veterinarian or his or her duly authorized representative prior to confirmation of a contagious disease or condition;**

[(8)] (10) "Infected animal" or "infected bird", an animal or bird which shows a positive reaction to any recognized serological test or growth on culture or any other recognized test for the detection of any disease of livestock or poultry as approved by the department or when clinical symptoms and history justifies designating such animal or bird as being infected with a contagious or infectious disease;

[(9)] (11) "Isolated" or "isolation", a condition in which animals or birds are quarantined to a certain designated premises and quarantined separately and apart from any other animals or birds on adjacent premises;

[(10)] (12) "Licensed market", a market as defined and licensed under chapter 277, RSMo;

[(11)] (13) "Livestock", horses, cattle, swine, sheep, goats, ratite birds including but not limited to ostrich and emu, aquatic products as defined in section 277.024, RSMo, llamas, alpaca, buffalo, elk documented as obtained from a legal source and not from the wild and raised in confinement for human consumption or animal husbandry, poultry and other domesticated animals or birds;

[(12)] (14) "Official health certificate" is a legal record covering the requirements of the state of Missouri executed on an official form of the standard size from the state of origin and approved by the proper livestock sanitary official of the state of origin or an equivalent form provided by the United States Department of Agriculture and issued by an approved, accredited, licensed, graduate veterinarian;

[(13)] (15) "Public stockyards", any public stockyards located within the state of Missouri and subject to regulations of the United States Department of Agriculture or the Missouri department of agriculture;

[(14)] (16) "Quarantine", a condition in which an animal or bird of any species is restricted in movement to a particular premises under such terms and conditions as may be designated by order of the state veterinarian or his duly authorized deputies;

[(15)] (17) "Traders" or "dealers", any person, firm or corporation engaged in the business of buying, selling or exchange of livestock on any basis other than on a commission basis at any sale pen, concentration point, farm, truck or other conveyance including persons, firms or corporations employed as an agent of the vendor or purchaser excluding public stockyards under federal supervision or markets licensed under sections 267.560 to 267.660 and under the supervision of the department, breed association sales or any private farm sale.

267.600. ANIMALS UNDER TEST OR INVESTIGATION NOT TO BE REMOVED — HOLDING PERIOD PERMITTED, WHEN. — 1. Animals, livestock or birds under test **or investigation** for a contagious and infectious disease **or condition** may not be removed from the premises until the results of the tests are known and the owner of such animals, livestock or birds receives a record of the test from the veterinarian certifying that the animals or birds are free of the disease

or **specified condition** and until any infected animals or birds are sold for slaughter on permit and as may be required by the state veterinarian, or until such animals or birds are recovered and incapable of spreading the disease **or condition** or until the animals or birds in the herd or flock have been released by the state veterinarian or his representative. The method of eradicating the disease **or condition** shall be at the discretion of the state veterinarian and in accordance with such procedures as may be outlined by the state veterinarian or his representative.

2. The state veterinarian or his or her representative may implement a holding period for the premise until the investigation and confirmation of the contagious and infectious disease or condition is completed.

3. Once investigation and testing is complete, animals or birds shall be released from the holding period or placed under permanent quarantine by the state veterinarian or his or her representative.

Approved June 29, 2010

HB 1692 [SS SCS HCS#2 HB 1692, 1209, 1405, 1499, 1535 & 1811]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding real estate; death registrations; cemeteries; architects, engineers, and surveyors; mechanic's liens; child support; clean energy projects; and appraisers

AN ACT to repeal sections 193.145, 193.265, 208.010, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 288.034, 327.031, 327.041, 327.272, 327.351, 327.411, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.503, 339.710, 452.340, 452.430, 454.475, 454.517, 454.557, 454.1003, 488.429, 537.296, 563.011, 563.031, 571.030, 571.070, 571.104, and 571.107, RSMo, and to enact in lieu thereof one-hundred four new sections relating to real estate, with penalty provisions.

SECTION

- A. Enacting clause.
- 60.670. Digital cadastral parcel mapping, minimum standards, rulemaking authority.
- 67.2800. Citation of law — definitions — projects subject to municipal ordinances and regulations.
- 67.2805. Rulemaking authority.
- 67.2810. Clean energy development boards may be formed, members, powers of board — annual report — limitation on certain legal actions.
- 67.2815. Assessment contract or levy of special assessment, requirements — maximum assessment — assessment to be a lien, when — right of first refusal, when.
- 67.2820. Program authorized, requirements — application process — audit may be required.
- 67.2825. Alternative financing method.
- 67.2830. Issuance of bonds.
- 67.2835. Allocation of state is residual share of certain bond limitation.
- 171.185. Materials recovery and recycling facility prohibited, when (city of Chesterfield).
- 193.145. Death certificate — electronic system — contents, filing, locale, duties of certain persons, time allowed — certificate marked presumptive, when.
- 193.265. Fees for certification and other services — distribution — services free, when.
- 208.010. Eligibility for public assistance, how determined — means test — certain medical assistance benefits to include payment of deductible and coinsurance — prevention of spousal impoverishments, division of assets, community spouse defined — burial lots defined — diversion of institutionalized spouse's income.
- 214.160. Shall invest or loan trust funds.
- 214.270. Definitions.

- 214.276. Refusal to issue license — notice — hearing.
 - 214.277. Injunctions, restraining orders, other court remedies available — venue.
 - 214.282. Voidability of contracts, exceptions.
 - 214.283. Notification of burial lands — registry of cemeteries to be kept by division — fee may be charged for copies — surveyor locating unregistered cemetery to file with division, form.
 - 214.300. Nonendowed cemetery may qualify as endowed, when — minimum care and maintenance fund to be established.
 - 214.310. Endowed care and maintenance fund, minimum amount — bond — posting of sign, when, information required.
 - 214.320. Deposits in fund required, amount — annual report, form furnished by division — audits may be conducted, when — exemption from chapter 436 requirements, when.
 - 214.325. Required deposits — deficiency — effect — penalty.
 - 214.330. Endowed care fund held in trust or segregated account — requirements — duties of trustee or independent investment advisor — operator's duties — endowed care fund agreement.
 - 214.335. Contributions to endowed care fund for memorial or monument — deficiency, effect of.
 - 214.340. Report required — content — oath — filing required.
 - 214.345. Sale of cemetery plot — written statement to be given to purchaser — copy of annual report to be available to public.
 - 214.360. Private use of trust funds prohibited.
 - 214.363. Bankruptcy, assignment for benefit of creditors, endowed care fund exempt.
 - 214.365. Cemetery failing to provide maintenance — abandonment or ceasing to operate, division's duties.
 - 214.367. Sale of assets, notice required — prospective purchaser of endowed care cemetery, right to recent audit — right to continue operation, notification by division.
 - 214.387. Burial merchandise or services, deferral of delivery, when — escrow arrangement — distribution of moneys — cancellation.
 - 214.389. Suspension of distribution, when, procedure.
 - 214.392. Division of professional registration, duties and powers in regulation of cemeteries — rulemaking authority.
 - 214.400. Citation of law.
 - 214.410. Violation of law, penalty.
 - 214.500. Cemeteries acquired by a city at tax sales or as nuisances may be sold.
 - 214.504. No liability for new cemetery operators, when — rights of holders of contracts for burial.
 - 214.508. Previous cemetery owner liable, when.
 - 214.512. New cemetery owner not liable for deficiencies, exception.
 - 214.516. Registration as an endowed care cemetery, when — compliance with endowed care cemetery law required.
 - 214.550. Scatter gardens, operation by churches maintaining religious cemeteries — maintenance of garden and records, duty of operator.
 - 246.310. Inapplicability of certain law regarding abeyance of water and sewer assessments.
 - 288.034. Employment defined.
 - 306.532. Certificate of title to designate year of manufacture
 - 327.031. Board established, membership, officers, qualifications of members — how appointed — terms — vacancy, how filled — may sue and be sued — abolishment of council — transfer of powers, duties and funds.
 - 327.041. Board, powers and duties — rules, generally, this chapter, procedure.
 - 327.272. Practice as professional land surveyor defined.
 - 327.351. Professional license renewal — expired or suspended license, renewal procedure — professional development requirements for renewal, exception.
 - 327.411. Personal seal, how used, effect of.
 - 339.010. Definitions — applicability of chapter.
 - 339.020. Brokers and salespersons, unlawful to act without license.
 - 339.030. Business entities may be licensed, when, fee.
 - 339.040. Licenses granted to whom — examination — qualifications — fee — temporary broker's license, when — renewal, requirements.
 - 339.080. Denial of application or license, when, notice — hearing.
 - 339.110. Refusal of licenses, when.
 - 339.160. Real estate brokers and salespersons may not bring legal action for compensation unless licensed.
 - 339.170. Penalty for violation.
 - 339.503. Definitions.
 - 339.710. Definitions.
 - 339.845. Notice of delinquent taxes to be sent by commission.
 - 339.1100. Citation of law.
 - 339.1105. Definitions
 - 339.1110. Registration requirements.
 - 339.1115. Inapplicability of act.
 - 339.1120. Application requirements.
-

- 339.1125. Term of registration.
- 339.1130. Irrevocable uniform consent to service of process required.
- 339.1135. Fees, amount — surety bond required — rulemaking authority.
- 339.1140. Ownership limitations.
- 339.1145. Designation of compliance manager as contact.
- 339.1150. Prohibited acts.
- 339.1155. Verification system required for credentialing.
- 339.1160. Licensure required, when.
- 339.1170. Licensure verification system, biannual certification required.
- 339.1175. Licensure sanction verification system, biannual certification required.
- 339.1180. Appraisal reviews, biannual certification required.
- 339.1185. Record-keeping, biannual certification required.
- 339.1190. Fee recording, appraiser not to be prohibited, when — fee notice to clients.
- 339.1200. Prohibited acts relating to influence.
- 339.1205. Prohibited acts, appraisal management company.
- 339.1210. Payment to appraiser, requirements.
- 339.1215. Alteration of appraisal report prohibited — appraiser's digital signature or seal not to be required.
- 339.1220. Registration numbers — list to be published — disclosure of numbers, when.
- 339.1230. Removal of appraiser prohibited, when — complaint procedure.
- 339.1235. Sanctioning of registration, imposition of civil penalties, when.
- 339.1240. Violations, adjudicatory proceedings.
- 429.016. Residential real property — recording required, procedure — failure to record, effect of — form of notice — separate notice required, when — release of lien, procedure — waiver, when.
- 441.645. Act of God, tenant not liable for rent.
- 452.340. Child support, how allocated — factors to be considered — abatement or termination of support, when — support after age eighteen, when — public policy of state — payments may be made directly to child, when — child support guidelines, rebuttable presumption, use of guidelines, when — retroactivity — obligation terminated, how.
- 452.430. Availability of certain records — limitation on inspection of certain documents — redaction of Social Security numbers.
- 454.475. Administrative hearing, procedure, effect on orders of social services — support, how determined — failure of parent to appear, result — judicial review.
- 454.517. Lien on workers' compensation, when, procedure — notice, contents — enforcement of lien — duties of director of workers' compensation — mistake of fact.
- 454.557. Obligations not recorded in automated system, when.
- 454.1003. Suspension of a professional or occupational license, when, procedure.
- 488.429. Fund paid to treasurer may be designated by circuit judge — use of fund for law library, and courtroom renovation and technology enhancement in certain counties.
- 493.055. Publication of certain real estate transactions.
- 537.296. Private nuisance action in excess of one million dollars, court or jury shall visit property.
- 563.011. Chapter definitions.
- 563.031. Use of force in defense of persons.
- 571.030. Unlawful use of weapons — exceptions — penalties.
- 571.070. Possession of firearm unlawful for certain persons — penalty — exception.
- 571.104. Suspension or revocation of endorsements, when — renewal procedures — change of name or residence notification requirements.
- 571.107. Endorsement does not authorize concealed firearms, where — penalty for violation.
- 214.290. Minimum endowed care and maintenance fund on election.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 193.145, 193.265, 208.010, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 288.034, 327.031, 327.041, 327.272, 327.351, 327.411, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.503, 339.710, 452.340, 452.430, 454.475, 454.517, 454.557, 454.1003, 488.429, 537.296, 563.011, 563.031, 571.030, 571.070, 571.104, and 571.107, RSMo, are repealed and one-hundred four new sections enacted in lieu thereof, to be known as sections 60.670, 67.2800, 67.2805, 67.2810, 67.2815, 67.2820, 67.2825, 67.2830, 67.2835, 171.185, 193.145, 193.265, 208.010, 214.160, 214.270, 214.276, 214.277, 214.282, 214.283, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387,

214.389, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 246.310, 288.034, 306.532, 327.031, 327.041, 327.272, 327.351, 327.411, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.503, 339.710, 339.845, 339.1100, 339.1105, 339.1110, 339.1115, 339.1120, 339.1125, 339.1130, 339.1135, 339.1140, 339.1145, 339.1150, 339.1155, 339.1160, 339.1170, 339.1175, 339.1180, 339.1185, 339.1190, 339.1200, 339.1205, 339.1210, 339.1215, 339.1220, 339.1230, 339.1235, 339.1240, 429.016, 441.645, 452.340, 452.430, 454.475, 454.517, 454.557, 454.1003, 488.429, 493.055, 537.296, 563.011, 563.031, 571.030, 571.070, 571.104, and 571.107 to read as follows:

60.670. DIGITAL CADASTRAL PARCEL MAPPING, MINIMUM STANDARDS, RULEMAKING AUTHORITY. — 1. As used in this section, the following terms shall mean:

(1) "Cadastral parcel mapping", an accurately delineated identification of all real property parcels. The cadastral map is based upon the USPLSS. For cadastral parcel maps the position of the legal framework is derived from the USPLSS, existing tax maps, and tax database legal descriptions, recorded deeds, recorded surveys, and recorded subdivision plats.

(2) "Digital cadastral parcel mapping", encompasses the concepts of automated mapping, graphic display and output, data analysis, and data base management as pertains to cadastral parcel mapping. Digital cadastral parcel mapping systems consist of hardware, software, data, people, organizations, and institutional arrangements for collecting, storing, analyzing, and disseminating information about the location and areas of parcels and the USPLSS;

(3) "USPLSS" or "United States public land survey system", a survey executed under the authority of the United States government as recorded on the official plats and field notes of the United States public land survey maintained by the land survey program of the department of natural resources;

(4) "Tax map", a document or map for taxation purposes representing the location, dimensions, and other relevant information pertaining to a parcel of land subject to property taxes.

2. The office of the state land surveyor established within the department of natural resources shall promulgate rules and regulations establishing minimum standards for digital cadastral parcel mapping. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

3. Any map designed and used to reflect legal property descriptions or boundaries for use in a digital cadastral mapping system shall comply with the rules promulgated under this section, unless the party requesting the map specifies otherwise in writing, the map was designed and in use prior to the promulgation of the rules, or the parties requesting and designing the map have already agreed to the terms of their contract on the effective date of the rules promulgation.

67.2800. CITATION OF LAW — DEFINITIONS — PROJECTS SUBJECT TO MUNICIPAL ORDINANCES AND REGULATIONS. — 1. Sections 67.2800 to 67.2835 shall be known and may be cited as the "Property Assessment Clean Energy Act".

2. As used in sections 67.2800 to 67.2835, the following words and terms shall mean:

(1) "Assessment contract", a contract entered into between a clean energy development board and a property owner under which the property owner agrees to pay

an annual assessment for a period of up to twenty years in exchange for financing of an energy efficiency improvement or a renewable energy improvement;

(2) "Authority", the state environmental improvement and energy resources authority established under section 260.010;

(3) "Bond", any bond, note, or similar instrument issued by or on behalf of a clean energy development board;

(4) "Clean energy conduit financing", the financing of energy efficiency improvements or renewable energy improvements for a single parcel of property or a unified development consisting of multiple adjoining parcels of property under section 67.2825;

(5) "Clean energy development board", a board formed by one or more municipalities under section 67.2810;

(6) "Energy efficiency improvement", any acquisition, installation, or modification on or of publicly or privately owned property designed to reduce the energy consumption of such property, including but not limited to:

(a) Insulation in walls, roofs, attics, floors, foundations, and heating and cooling distribution systems;

(b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective windows and doors, and other window and door improvements designed to reduce energy consumption;

(c) Automatic energy control systems;

(d) Heating, ventilating, or air conditioning distribution system modifications and replacements;

(e) Caulking and weatherstripping;

(f) Replacement or modification of lighting fixtures to increase energy efficiency of the lighting system without increasing the overall illumination of the building unless the increase in illumination is necessary to conform to applicable state or local building codes;

(g) Energy recovery systems; and

(h) Daylighting systems;

(7) "Municipality", any county, city, or incorporated town or village of this state;

(8) "Project", any energy efficiency improvement or renewable energy improvement;

(9) "Property assessed clean energy local finance fund", a fund that may be established by the authority for the purpose of making loans to clean energy development boards to establish and maintain property assessed clean energy programs;

(10) "Property assessed clean energy program", a program established by a clean energy development board to finance energy efficiency improvements or renewable energy improvements under section 67.2820;

(11) "Renewable energy improvement", any acquisition and installation of a fixture, product, system, device, or combination thereof on publicly or privately owned property that produces energy from renewable resources, including, but not limited to photovoltaic systems, solar thermal systems, wind systems, biomass systems, or geothermal systems.

3. All projects undertaken under sections 67.2800 to 67.2835 are subject to the applicable municipality's ordinances and regulations, including, but not limited to those ordinances and regulations concerning zoning, subdivision, building, fire safety, and historic or architectural review.

67.2805. RULEMAKING AUTHORITY. — 1. The authority may, as needed, promulgate administrative rules and regulations relating to the following:

(1) Guidelines and specifications for administering the property assessed clean energy local finance fund; and

(2) Any clarification to the definitions of energy efficiency improvement and renewable energy improvement as the authority may determine is necessary or advisable.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

67.2810. CLEAN ENERGY DEVELOPMENT BOARDS MAY BE FORMED, MEMBERS, POWERS OF BOARD — ANNUAL REPORT — LIMITATION ON CERTAIN LEGAL ACTIONS. — 1. One or more municipalities may form clean energy development boards for the purpose of exercising the powers described in sections 67.2800 to 67.2835. Each clean energy development board shall consist of not less than three members, as set forth in the ordinance or order establishing the clean energy development board. Members shall serve terms as set forth in the ordinance or order establishing the clean energy development board and shall be appointed:

(1) If only one municipality is participating in the clean energy development board, by the chief elected officer of the municipality with the consent of the governing body of the municipality; or

(2) If more than one municipality is participating, in a manner agreed to by all participating municipalities.

2. A clean energy development board shall be a political subdivision of the state and shall have all powers necessary and convenient to carry out and effectuate the provisions of sections 67.2800 to 67.2835, including, but not limited to the following:

(1) To adopt, amend, and repeal bylaws, which are not inconsistent with sections 67.2800 to 67.2835;

(2) To adopt an official seal;

(3) To sue and be sued;

(4) To make and enter into contracts and other instruments with public and private entities;

(5) To accept grants, guarantees, and donations of property, labor, services, and other things of value from any public or private source;

(6) To employ or contract for such managerial, legal, technical, clerical, accounting, or other assistance it deems advisable;

(7) To levy and collect special assessments under an assessment contract with a property owner and to record such special assessments as a lien on the property;

(8) To borrow money from any public or private source and issue bonds and provide security for the repayment of the same;

(9) To finance a project under an assessment contract;

(10) To collect reasonable fees and charges in connection with making and servicing assessment contracts and in connection with any technical, consultative, or project assistance services offered;

(11) To invest any funds not required for immediate disbursement in obligations of the state of Missouri or of the United States or any agency or instrumentality thereof, or in bank certificates of deposit; provided, however, the limitations on investments provided in this subdivision shall not apply to proceeds acquired from the sale of bonds which are held by a corporate trustee; and

(12) To take whatever actions necessary to participate in and administer a clean energy conduit financing or a property assessed clean energy program.

3. No later than July first of each year, the clean energy development board shall file with each municipality that participated in the formation of the clean energy development

board and with the director of the department of natural resources, an annual report for the preceding calendar year that includes:

(1) A brief description of each project financed by the clean energy development board during the preceding calendar year, which shall include the physical address of the property, the name or names of the property owner, an itemized list of the costs of the project, and the name of any contractors used to complete the project;

(2) The amount of assessments due and the amount collected during the preceding calendar year;

(3) The amount of clean energy development board administrative costs incurred during the preceding calendar year;

(4) The estimated cumulative energy savings resulting from all energy efficiency improvements financed during the preceding calendar year; and

(5) The estimated cumulative energy produced by all renewable energy improvements financed during the preceding calendar year.

4. No lawsuit to set aside the formation of a clean energy development board or to otherwise question the proceedings related thereto shall be brought after the expiration of sixty days from the effective date of the ordinance or order creating the clean energy development board. No lawsuit to set aside the approval of a project, an assessment contract, or a special assessment levied by a clean energy development board, or to otherwise question the proceedings related thereto shall be brought after the expiration of sixty days from the date that the assessment contract is executed.

67.2815. ASSESSMENT CONTRACT OR LEVY OF SPECIAL ASSESSMENT, REQUIREMENTS — MAXIMUM ASSESSMENT — ASSESSMENT TO BE A LIEN, WHEN — RIGHT OF FIRST REFUSAL, WHEN. — 1. A clean energy development board shall not enter into an assessment contract or levy or collect a special assessment for a project without making a finding that there are sufficient resources to complete the project and that the estimated economic benefit expected from the project during the financing period is equal to or greater than the cost of the project.

2. An assessment contract shall be executed by the clean energy development board and the benefitted property owner or property owners and shall provide:

(1) A description of the project, including the estimated cost of the project and details on how the project will either reduce energy consumption or create energy from renewable sources;

(2) A mechanism for:

(a) Verifying the final costs of the project upon its completion; and

(b) Ensuring that any amounts advanced or otherwise paid by the clean energy development board toward costs of the project will not exceed the final cost of the project;

(3) An acknowledgment by the property owner that the property owner has received or will receive a special benefit by financing a project through the clean energy development board that equals or exceeds the total assessments due under the assessment contract;

(4) An agreement by the property owner to pay annual special assessments for a period not to exceed twenty years, as specified in the assessment contract;

(5) A statement that the obligations set forth in the assessment contract, including the obligation to pay annual special assessments, are a covenant that shall run with the land and be obligations upon future owners of such property; and

(6) An acknowledgment that no subdivision of property subject to the assessment contract shall be valid unless the assessment contract or an amendment thereof divides the total annual special assessment due between the newly subdivided parcels pro rata to the special benefit realized by each subdivided parcel.

3. The total special assessments levied against a property under an assessment contract shall not exceed the sum of the cost of the project, including any required energy audits and inspections, or portion thereof financed through the participation in a property assessed clean energy program or clean energy conduit financing, including the costs of any audits or inspections required by the clean energy development board, plus such administration fees, interest, and other financing costs reasonably required by the clean energy development board.

4. The clean energy development board shall provide a copy of each signed assessment contract to the local county assessor and county collector and shall cause a copy of such assessment contract to be recorded in the real estate records of the county recorder of deeds.

5. Special assessments agreed to under an assessment contract shall be a lien on the property against which it is assessed on behalf of the applicable clean energy development board from the date that each annual assessment under the assessment contract becomes due. Such special assessments shall be collected by the county collector in the same manner and with the same priority as ad valorem real property taxes. Once collected, the county collector shall pay over such special assessment revenues to the clean energy development board in the same manner in which revenues from ad valorem real property taxes are paid to other taxing districts. Such special assessments shall be collected as provided in this subsection from all subsequent property owners, including the state and all political subdivisions thereof, for the term of the assessment contract.

6. Any clean energy development board that contracts for outside administrative services to provide financing origination for a project shall offer the right of first refusal to enter into such a contract to a federally insured depository institution with a physical presence in Missouri upon the same terms and conditions as would otherwise be approved by the clean energy development board. Such right of first refusal shall not be applicable to the origination of any transaction that involves the issuance of bonds by the clean energy development board.

67.2820. PROGRAM AUTHORIZED, REQUIREMENTS—APPLICATION PROCESS—AUDIT MAY BE REQUIRED. — 1. Any clean energy development board may establish a property assessed clean energy program to finance energy efficiency improvements or renewable energy improvements. A property assessed clean energy program shall consist of a program whereby a property owner may apply to a clean energy development board to finance the costs of a project through annual special assessments levied under an assessment contract.

2. A clean energy development board may establish application requirements and criteria for project financing approval as it deems necessary to effectively administer such program and ration available funding among projects, including but not limited to requiring projects to meet certain energy efficiency standards.

3. Clean energy development boards shall ensure that any property owner approved by the board to participate in a property assessed clean energy program or clean energy conduit financing under sections 67.2800 to 67.2835 shall have good credit worthiness or shall otherwise be considered a low risk for failure to meet the obligations of the program or conduit financing.

4. A clean energy development board may require an initial energy audit conducted by a qualified home energy auditor as defined in subdivision (4) of subsection 1 of section 640.153 as a prerequisite to project financing through a property assessed clean energy program as well as inspections to verify project completion.

67.2825. ALTERNATIVE FINANCING METHOD. — 1. In lieu of financing a project through a property assessed clean energy program, a clean energy development board

may seek to finance any number of projects to be installed within a single parcel of property or within a unified development consisting of multiple adjoining parcels of property by participating in a clean energy conduit financing.

2. A clean energy conduit financing shall consist of the issuance of bonds under section 67.2830 payable from the special assessment revenues collected under an assessment contract with the property owner participating in the clean energy conduit financing and any other revenues pledged thereto.

67.2830. ISSUANCE OF BONDS. — 1. A clean energy development board may issue bonds payable from special assessment revenues generated by assessment contracts and any other revenues pledged thereto. The bonds shall be authorized by resolution of the clean energy development board, shall bear such date or dates, and shall mature at such time or times as the resolution shall specify, provided that the term of any bonds issued for a clean energy conduit financing shall not exceed twenty years. The bonds shall be in such denomination, bear interest at such rate, be in such form, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide. Notwithstanding any provision to the contrary under this section, issuance of the bonds shall conform to the requirements of subsection 1 of section 108.170.

2. Any bonds issued under this section shall not constitute an indebtedness of the state or any municipality. Neither the state nor any municipality shall be liable on such bonds, and the form of such bonds shall contain a statement to such effect.

67.2835. ALLOCATION OF STATE IS RESIDUAL SHARE OF CERTAIN BOND LIMITATION. — The director of the department of economic development is authorized to allocate the state's residual share, or any portion thereof, of the national qualified energy conservation bond limitation under Section 54D of the Internal Revenue Code of 1986, as amended, for any purposes described therein to the authority, any clean energy development board, the state, any political subdivision, instrumentality, or other body corporate and politic.

171.185. MATERIALS RECOVERY AND RECYCLING FACILITY PROHIBITED, WHEN (CITY OF CHESTERFIELD). — No school district located in any city of the third classification with more than forty-six thousand eight hundred but fewer than forty-seven thousand inhabitants shall operate a materials recovery and recycling facility within five hundred feet of a residential property.

193.145. DEATH CERTIFICATE — ELECTRONIC SYSTEM — CONTENTS, FILING, LOCALE, DUTIES OF CERTAIN PERSONS, TIME ALLOWED — CERTIFICATE MARKED PRESUMPTIVE, WHEN. — 1. A certificate of death for each death which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within five days after death and shall be registered if such certificate has been completed and filed pursuant to this section. All data providers in the death registration process, including, but not limited to, the state registrar, local registrars, the state medical examiner, county medical examiners, coroners, funeral directors, embalmers, sheriffs, attending physicians and resident physicians, chief medical officers of licensed health care facilities, and other public or private institutions providing medical care, treatment, or confinement to persons, shall be required to use any electronic death registration system required under subsection 1 of section 193.265 within six months of the system being certified by the director of the department of health and senior services to be operational and available to all data providers in the death registration process. Nothing in this section shall prevent the state registrar from adopting pilot programs or voluntary electronic death registration programs until such time as the system can be certified, however, no such pilot or voluntary electronic death registration program shall prevent the filing of a death

certificate with the local registrar or the ability to obtain certified copies of death certificates under subsection 2 of section 193.265 until six months after said certification that the system is operational.

2. If the place of death is unknown but the dead body is found in this state, the certificate of death shall be completed and filed pursuant to the provisions of this section. The place where the body is found shall be shown as the place of death. The date of death shall be the date on which the remains were found.

3. When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where the body is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state but the certificate shall show the actual place of death if such place may be determined.

4. The funeral director or person in charge of final disposition of the dead body shall file the certificate of death. The funeral director or person in charge of the final disposition of the dead body shall obtain or verify:

(1) The personal data from the next of kin or the best qualified person or source available; and

(2) The medical certification from the person responsible for such certification.

5. The medical certification shall be completed, attested to its accuracy either by signature or an electronic process approved by the department, and returned to the funeral director or person in charge of final disposition within seventy-two hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death. In the absence of the physician or with the physician's approval the certificate may be completed and attested to its accuracy either by signature or an approved electronic process by the physician's associate physician, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the case, views the deceased at or after death and death is due to natural causes. The state registrar may approve alternate methods of obtaining and processing the medical certification and filing the death certificate. The Social Security number of any individual who has died shall be placed in the records relating to the death and recorded on the death certificate.

6. When death occurs from natural causes more than thirty-six hours after the decedent was last treated by a physician, the case shall be referred to the county medical examiner or coroner or physician or local registrar for investigation to determine and certify the cause of death. If the death is determined to be of a natural cause, the medical examiner or coroner or local registrar shall refer the certificate of death to the attending physician for such physician's certification. If the attending physician refuses or is otherwise unavailable, the medical examiner or coroner or local registrar shall attest to the accuracy of the certificate of death either by signature or an approved electronic process within thirty-six hours.

7. If the circumstances suggest that the death was caused by other than natural causes, the medical examiner or coroner shall determine the cause of death and shall complete and attest to the accuracy either by signature or an approved electronic process the medical certification within seventy-two hours after taking charge of the case.

8. If the cause of death cannot be determined within seventy-two hours after death, the attending medical examiner or coroner or attending physician or local registrar shall give the funeral director, or person in charge of final disposition of the dead body, notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the medical examiner or coroner, attending physician or local registrar.

9. When a death is presumed to have occurred within this state but the body cannot be located, a death certificate may be prepared by the state registrar upon receipt of an order of a

court of competent jurisdiction which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "Presumptive", show on its face the date of registration, and identify the court and the date of decree.

193.265. FEES FOR CERTIFICATION AND OTHER SERVICES — DISTRIBUTION — SERVICES FREE, WHEN. — 1. For the issuance of a certification or copy of a death record, the applicant shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. All fees shall be deposited to the state department of revenue. Beginning August 28, 2004, for each vital records fee collected, the director of revenue shall credit four dollars to the general revenue fund, five dollars to the children's trust fund, one dollar shall be credited to the endowed care cemetery audit fund, and three dollars for the first copy of death records and five dollars for birth, marriage, divorce, and fetal death records shall be credited to the Missouri public services health fund established in section 192.900, RSMo. Money in the endowed care cemetery audit fund shall be available by appropriation to the division of professional registration to pay its expenses in administering sections 214.270 to 214.410, RSMo. All interest earned on money deposited in the endowed care cemetery audit fund shall be credited to the endowed care cemetery fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money placed in the endowed care cemetery audit fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the endowed care cemetery audit fund for the preceding fiscal year. The money deposited in the public health services fund under this section shall be deposited in a separate account in the fund, and moneys in such account, upon appropriation, shall be used to automate and improve the state vital records system, and develop and maintain an electronic birth and death registration system [which shall be implemented no later than December 31, 2009]. For any search of the files and records, when no record is found, the state shall be entitled to a fee equal to the amount for a certification of a vital record for a five-year search to be paid by the applicant. For the processing of each legitimation, adoption, court order or recording after the registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a certification of a vital record. Except whenever a certified copy or copies of a vital record is required to perfect any claim of any person on relief, or any dependent of any person who was on relief for any claim upon the government of the state or United States, the state registrar shall, upon request, furnish a certified copy or so many certified copies as are necessary, without any fee or compensation therefor.

2. For the issuance of a certification of a death record by the local registrar, the applicant shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. All fees shall be deposited to the official city or county health agency. A certified copy of a death record by the local registrar can only be issued within twenty-four hours of receipt of the record by the local registrar. Computer-generated certifications of death records may be issued by the local registrar after twenty-four hours of receipt of the records. The fees paid to the official county health agency shall be retained by the local agency for local public health purposes.

208.010. ELIGIBILITY FOR PUBLIC ASSISTANCE, HOW DETERMINED — MEANS TEST — CERTAIN MEDICAL ASSISTANCE BENEFITS TO INCLUDE PAYMENT OF DEDUCTIBLE AND COINSURANCE — PREVENTION OF SPOUSAL IMPOVERISHMENTS, DIVISION OF ASSETS, COMMUNITY SPOUSE DEFINED — BURIAL LOTS DEFINED — DIVERSION OF INSTITUTIONALIZED SPOUSE'S INCOME. — 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the division of family services to consider and take into account all facts and circumstances surrounding the claimant, including

his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the division of family services; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining the need of a claimant in federally aided programs there shall be disregarded such amounts per month of earned income in making such determination as shall be required for federal participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When federal law or regulations require the exemption of other income or resources, the division of family services may provide by rule or regulation the amount of income or resources to be disregarded.

2. Benefits shall not be payable to any claimant who:

(1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given away or sold a resource within the time and in the manner specified in this subdivision. In determining the resources of an individual, unless prohibited by federal statutes or regulations, there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this subsection, and subsection 5 of this section) any resource or interest therein owned by such individual or spouse within the twenty-four months preceding the initial investigation, or at any time during which benefits are being drawn, if such individual or spouse gave away or sold such resource or interest within such period of time at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits, including but not limited to benefits based on December, 1973, eligibility requirements, as follows:

(a) Any transaction described in this subdivision shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose;

(b) The resource shall be considered in determining eligibility from the date of the transfer for the number of months the uncompensated value of the disposed of resource is divisible by the average monthly grant paid or average Medicaid payment in the state at the time of the investigation to an individual or on his or her behalf under the program for which benefits are claimed, provided that:

a. When the uncompensated value is twelve thousand dollars or less, the resource shall not be used in determining eligibility for more than twenty-four months; or

b. When the uncompensated value exceeds twelve thousand dollars, the resource shall not be used in determining eligibility for more than sixty months;

(2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes convincing evidence that the uncompensated value of the disposed of resource or any part thereof is no longer possessed or owned by the person to whom the resource was transferred;

(3) Has received, or whose spouse with whom he or she is living has received, benefits to which he or she was not entitled through misrepresentation or nondisclosure of material facts or failure to report any change in status or correct information with respect to property or income as required by section 208.210. A claimant ineligible pursuant to this subsection shall be

ineligible for such period of time from the date of discovery as the division of family services may deem proper; or in the case of overpayment of benefits, future benefits may be decreased, suspended or entirely withdrawn for such period of time as the division may deem proper;

(4) Owns or possesses resources in the sum of one thousand dollars or more; provided, however, that if such person is married and living with spouse, he or she, or they, individually or jointly, may own resources not to exceed two thousand dollars; and provided further, that in the case of a temporary assistance for needy families claimant, the provision of this subsection shall not apply;

(5) Prior to October 1, 1989, owns or possesses property of any kind or character, excluding amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo] **under chapter 436**, or has an interest in property, of which he or she is the record or beneficial owner, the value of such property, as determined by the division of family services, less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually living together with husband or wife, if the value of his or her property, or the value of his or her interest in property, together with that of such husband and wife, exceeds such amount;

(6) In the case of temporary assistance for needy families, if the parent, stepparent, and child or children in the home owns or possesses property of any kind or character, or has an interest in property for which he or she is a record or beneficial owner, the value of such property, as determined by the division of family services and as allowed by federal law or regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo] **under chapter 436**, one automobile which shall not exceed a value set forth by federal law or regulation and for a period not to exceed six months, such other real property which the family is making a good-faith effort to sell, if the family agrees in writing with the division of family services to sell such property and from the net proceeds of the sale repay the amount of assistance received during such period. If the property has not been sold within six months, or if eligibility terminates for any other reason, the entire amount of assistance paid during such period shall be a debt due the state;

(7) Is an inmate of a public institution, except as a patient in a public medical institution.

3. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the income and resources of a relative or other person living in the home shall be taken into account to the extent the income, resources, support and maintenance are allowed by federal law or regulation to be considered.

4. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the value of burial lots or any amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo,] **under chapter 436** shall not be taken into account or considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as defined in section 214.270, RSMo, and any memorial, monument, marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436, RSMo, of an irrevocable prearranged funeral or burial contract receives any public assistance benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in interest [cancel or amend] **transfer, amend, or take any other such actions regarding** the contract so that any person will be entitled to a refund, such refund shall be paid to the state of Missouri [up to the amount of public assistance benefits provided pursuant to this chapter with any remainder to be paid to those persons designated in chapter 436, RSMo] **with any amount in excess of the public assistance benefits provided under this chapter to be refunded by the state of Missouri to the purchaser or his or her successors. In determining eligibility and the amount of benefits to be granted under federally aided programs, the value of any life**

insurance policy where a seller or provider is made the beneficiary or where the life insurance policy is assigned to a seller or provider, either being in consideration for an irrevocable prearranged funeral contract under chapter 436, shall not be taken into account or considered an asset of the beneficiary of the irrevocable prearranged funeral contract.

5. In determining the total property owned pursuant to subdivision (5) of subsection 2 of this section, or resources, of any person claiming or for whom public assistance is claimed, there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or any two or more policies or contracts, or any combination of policies and contracts, which provides for the payment of one thousand five hundred dollars or less upon the death of any of the following:

- (1) A claimant or person for whom benefits are claimed; or
- (2) The spouse of a claimant or person for whom benefits are claimed with whom he or she is living. If the value of such policies exceeds one thousand five hundred dollars, then the total value of such policies may be considered in determining resources; except that, in the case of temporary assistance for needy families, there shall be disregarded any prearranged funeral or burial contract, or any two or more contracts, which provides for the payment of one thousand five hundred dollars or less per family member.

6. Beginning September 30, 1989, when determining the eligibility of institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall comply with the provisions of the federal statutes and regulations. As necessary, the division shall by rule or regulation implement the federal law and regulations which shall include but not be limited to the establishment of income and resource standards and limitations. The division shall require:

- (1) That at the beginning of a period of continuous institutionalization that is expected to last for thirty days or more, the institutionalized spouse, or the community spouse, may request an assessment by the division of family services of total countable resources owned by either or both spouses;
- (2) That the assessed resources of the institutionalized spouse and the community spouse may be allocated so that each receives an equal share;
- (3) That upon an initial eligibility determination, if the community spouse's share does not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the community spouse a resource allowance to increase the community spouse's share to twelve thousand dollars;
- (4) That in the determination of initial eligibility of the institutionalized spouse, no resources attributed to the community spouse shall be used in determining the eligibility of the institutionalized spouse, except to the extent that the resources attributed to the community spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section 1396r-5;
- (5) That beginning in January, 1990, the amount specified in subdivision (3) of this subsection shall be increased by the percentage increase in the Consumer Price Index for All Urban Consumers between September, 1988, and the September before the calendar year involved; and
- (6) That beginning the month after initial eligibility for the institutionalized spouse is determined, the resources of the community spouse shall not be considered available to the institutionalized spouse during that continuous period of institutionalization.

7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods required and for the reasons specified in 42 U.S.C. Section 1396p.

8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to the provisions of section 208.080.

9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the home of the applicant or recipient when the home is providing shelter to the applicant or recipient, or his or her spouse or dependent child. The division of family services shall establish by rule or regulation in conformance with applicable federal statutes and regulations a definition of the home and when the home shall be considered a resource that shall be considered in determining eligibility.

10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts as determined due pursuant to the applicable provisions of federal regulations pertaining to Title XVIII Medicare Part B, except the applicable Title XIX cost sharing.

11. A "community spouse" is defined as being the noninstitutionalized spouse.

12. An institutionalized spouse applying for Medicaid and having a spouse living in the community shall be required, to the maximum extent permitted by law, to divert income to such community spouse to raise the community spouse's income to the level of the minimum monthly needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall occur before the community spouse is allowed to retain assets in excess of the community spouse protected amount described in 42 U.S.C. Section 1396r-5.

214.160. SHALL INVEST OR LOAN TRUST FUNDS. — The county commission shall invest or loan said trust fund or funds only in United States government, state, county or municipal bonds, [or] **certificates of deposit**, first real estate mortgages, or deeds of trust. They shall use the net income from said trust fund or funds or so much thereof as is necessary to support and maintain and beautify any public or private cemetery or any particular part thereof which may be designated by the person, persons or firm or association making said gift or bequest. In maintaining or supporting the cemetery or any particular part or portion thereof the commission shall as nearly as possible follow the expressed wishes of the creator of said trust fund.

214.270. DEFINITIONS. — As used in sections 214.270 to 214.410, the following terms mean:

(1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;

(2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

(3) "Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn, outer burial container, or similar article which may contain specific lettering, shape, color, or design as specified by the purchaser;

(4) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;

(5) "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care, maintenance, adornment and administration of a cemetery. Cemetery associations shall be governed by a board of directors. Directors shall serve without compensation;

(6) "Cemetery operator" or "operator", any person who owns, controls, operates or manages a cemetery;

(7) "Cemetery prearranged contract", any contract with a **cemetery or cemetery operator** for [goods and services covered by this chapter which includes a sale of burial merchandise in which delivery of merchandise or a valid warehouse receipt under sections 214.270 to 214.550 is deferred pursuant to written instructions from the purchaser. It shall also mean any contract for goods and services covered by sections 214.270 to 214.550 which includes a sale of burial services to be performed at a future date] **burial merchandise or burial services covered by sections 214.270 to 214.410 which is entered into before the death of the individual for whom the burial merchandise or burial services are intended;**

(8) "Cemetery service" or "burial service", those services performed by a cemetery owner or operator licensed as an endowed care or nonendowed cemetery including setting a monument or marker, setting a tent, excavating a grave, interment, entombment, inurnment, setting a vault, or other related services within the cemetery;

(9) "Columbarium", a building or structure for the inurnment of cremated human remains;

(10) "Community mausoleum", a mausoleum containing a substantial area of enclosed space and having either a heating, ventilating or air conditioning system;

(11) "Department", department of insurance, financial institutions and professional registration;

(12) "Developed acreage", the area which has been platted into grave spaces and has been developed with roads, paths, features, or ornamentations and in which burials can be made;

(13) "Director", director of the division of professional registration;

(14) "Division", division of professional registration;

(15) "Endowed care", the maintenance, repair and care of all burial space subject to the endowment within a cemetery, including any improvements made for the benefit of such burial space. Endowed care shall include the general overhead expenses needed to accomplish such maintenance, repair, care and improvements. Endowed care shall include the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;

(16) "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents itself as offering endowed care and which complies with the provisions of sections 214.270 to 214.410;

(17) "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent, to include any income therefrom, impressed with a trust by the terms of any gift, grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and accepted by any endowed care cemetery operator or his agent. This definition includes the terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like term;

(18) "Escrow account", an account established in lieu of an endowed care fund as provided under section 214.330 or an account used to hold deposits under section 214.387;

(19) "Escrow agent", an attorney, title company, certified public accountant or other person authorized by the division to exercise escrow powers under the laws of this state;

(20) "Escrow agreement", an agreement subject to approval by the office between an escrow agent and a cemetery operator or its agent or related party with common ownership, to receive and administer payments under cemetery prearranged contracts sold by the cemetery operator;

(21) "Family burial ground", a cemetery in which no burial space is sold to the public and in which interments are restricted to persons related by blood or marriage;

(22) "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is restricted solely to its members and their immediate families;

(23) "Garden mausoleum", a mausoleum without a substantial area of enclosed space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

(24) "Government cemetery", or "municipal cemetery", a cemetery owned, operated, controlled or managed by the federal government, the state or a political subdivision of the state, including a county or municipality or instrumentality thereof;

(25) "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for burial of human remains;

(26) "Human remains", the body of a deceased person in any state of decomposition, as well as cremated remains;

(27) "Inurement", placing an urn containing cremated remains in a burial space;

(28) "Lawn crypt", a burial vault or other permanent container for a casket which is permanently installed below ground prior to the time of the actual interment. A lawn crypt may permit single or multiple interments in a grave space;

(29) "Mausoleum", a structure or building for the entombment of human remains in crypts;

(30) "Niche", a space in a columbarium used or intended to be used for inurement of cremated remains;

(31) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section of a cemetery for which no endowed care trust fund has been established in accordance with sections 214.270 to 214.410;

(32) "Office", the office of endowed care cemeteries within the division of professional registration;

(33) "Owner of burial space", a person to whom the cemetery operator or his authorized agent has transferred the right of use of burial space;

(34) "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;

(35) "Registry", the list of cemeteries maintained in the division office for public review. The division may charge a fee for copies of the registry;

(36) "Religious cemetery", a cemetery owned, operated, controlled or managed by any church, convention of churches, religious order or affiliated auxiliary thereof in which the sale of burial space is restricted solely to its members and their immediate families;

(37) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land surface;

(38) "Total acreage", the entire tract which is dedicated to or reserved for cemetery purposes;

(39) "Trustee of an endowed care fund", the separate legal entity **qualified under section 214.330** appointed as trustee of an endowed care fund.

214.276. REFUSAL TO ISSUE LICENSE — NOTICE — HEARING. — 1. The division may refuse to issue or renew any license, required pursuant to sections 214.270 to 214.516 for one or any combination of causes stated in subsection 2 of this section. The division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any license, required by sections 214.270 to 214.516 or any person who has failed to surrender his or her license, for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 214.270 to 214.516;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 214.270 to 214.516, for any offense an

essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license, issued pursuant to sections 214.270 to 214.516 or in obtaining permission to take any examination given or required pursuant to sections 214.270 to 214.516;

(4) Obtaining or attempting to obtain any fee, charge or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession regulated by sections 214.270 to 214.516;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 214.270 to 214.516, or any lawful rule or regulation adopted pursuant to sections 214.270 to 214.516;

(7) Impersonation of any person holding a license or allowing any person to use his or her license;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 214.270 to 214.516 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 214.270 to 214.516 who is not registered and currently eligible to practice pursuant to sections 214.270 to 214.516;

(11) Issuance of a license based upon a material mistake of fact;

(12) Failure to display a valid license;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Willfully and through undue influence selling a burial space, cemetery services or merchandise.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the division may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five years, or may suspend, or revoke the license or permit **or may impose a penalty allowed by subsection 4 of section 214.410**. No new license shall be issued to the owner or operator of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner.

4. [Operators of all existing endowed care or nonendowed care cemeteries shall, prior to August twenty-eighth following August 28, 2001, apply for a license pursuant to this section. All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270 to 214.516 prior to August twenty-eighth following August 28, 2001, shall be granted a license by the division upon receipt of application.

5.] The division may settle disputes arising under subsections 2 and 3 of this section by consent agreement or settlement agreement between the division and the holder of a license. Within such a settlement agreement, the division may singly or in combination impose any discipline or penalties allowed by this section or subsection 4 of section 214.410. Settlement of such disputes shall be entered into pursuant to the procedures set forth in section 621.045, RSMo.

5. Use of the procedures set out in this section shall not preclude the application of any other remedy provided by this chapter.

214.277. INJUNCTIONS, RESTRAINING ORDERS, OTHER COURT REMEDIES AVAILABLE — VENUE. — 1. Upon application by the division, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.

2. [Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3.] Any action brought pursuant to this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

214.282. VOIDABILITY OF CONTRACTS, EXCEPTIONS. — 1. Each contract sold by a cemetery operator for cemetery services or for grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches, mausoleums, or other receptacles shall be voidable by the purchaser and deemed unenforceable unless:

(1) It is in writing;

(2) It is executed by a cemetery operator who is in compliance with the licensing provisions of this chapter;

(3) It identifies the contract purchaser and identifies the cemetery services or other items to be provided;

(4) It identifies the name and address of any trustee or escrow agent that will receive payments made pursuant to the contract under the provisions of sections 214.320, 214.330, or 214.387, if applicable;

(5) It contains the name and address of the cemetery operator; and

(6) It identifies any grounds for cancellation by the purchaser or by the cemetery operator on default of payment.

2. If a cemetery prearranged contract does not substantially comply with the provisions of this section, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys' fees.

214.283. NOTIFICATION OF BURIAL LANDS — REGISTRY OF CEMETERIES TO BE KEPT BY DIVISION — FEE MAY BE CHARGED FOR COPIES — SURVEYOR LOCATING UNREGISTERED CEMETERY TO FILE WITH DIVISION, FORM. — 1. Any person, entity, association, city, town, village, county or political subdivision that purchases, receives or holds any real estate used for the burial of dead human bodies, excluding a family burial ground, shall notify the office of the endowed care cemeteries of the name, location and address of such real estate on a form approved by the office, before October 1, 2010, or within thirty days of purchasing, receiving or holding such land or of being notified by the office of the requirements of this provision. No fee shall be charged for such notification nor shall any penalty be assessed for failure to register. This section shall not be deemed to exempt any operator of an endowed care cemetery or non-endowed care cemetery from being duly licensed as required by this chapter.

2. The division shall establish and maintain a registry of cemeteries and the registry shall be available to the public for review at the division office or copied upon request. The division may charge a fee for copies of the register.

(1) If, in the course of a land survey of property located in this state, a surveyor licensed pursuant to chapter 327, RSMo, locates any cemetery which has not been previously registered, the surveyor shall file a statement with the division regarding the location of the cemetery. The statement shall be filed on a form as defined by division rule. No fee shall be charged to the surveyor for such filing.

(2) Any person, family, group, association, society or county surveyor may submit to the division, on forms provided by the division, the names and locations of any cemetery located in this state for inclusion in the registry. No fee shall be charged for such submissions.

214.300. NONENDOWED CEMETERY MAY QUALIFY AS ENDOWED, WHEN — MINIMUM CARE AND MAINTENANCE FUND TO BE ESTABLISHED. — Any cemetery operator may, after October 13, 1961, qualify to operate a cemetery which has been operated as a nonendowed cemetery for a minimum of two years, as an endowed care cemetery by:

(1) So electing in compliance with section 214.280;

(2) Establishing an endowed care **trust** fund in cash of one thousand dollars for each acre in said cemetery with a minimum of five thousand dollars and a maximum of twenty-five thousand dollars;

(3) Filing the report required by section 214.340.

214.310. ENDOWED CARE AND MAINTENANCE FUND, MINIMUM AMOUNT — BOND — POSTING OF SIGN, WHEN, INFORMATION REQUIRED. — 1. Any cemetery operator who elects to operate a new cemetery as an endowed care cemetery or who represents to the public that perpetual, permanent, endowed, continual, eternal care, care of duration or similar care will be furnished cemetery property sold shall create an endowed care **trust** fund and shall deposit a minimum of twenty-five thousand dollars for cemeteries that have in excess of one hundred burials annually or a minimum of five thousand dollars for cemeteries that have one hundred or less burials annually in such fund before selling or disposing of any burial space in said cemetery, or in lieu thereof such cemetery owner may furnish a surety bond issued by a bonding company or insurance company authorized to do business in this state in the face amount of thirty thousand dollars, and such bond shall run to the office of endowed care cemeteries for the benefit of the care **trust** funds held by such cemetery. This bond shall be for the purpose of guaranteeing an accumulation of twenty-five thousand dollars in such care **trust** fund and also for the further purpose of assuring that the cemetery owner shall provide annual perpetual or endowment care in an amount equal to the annual reasonable return on a secured cash investment of twenty-five thousand dollars until twenty-five thousand dollars is accumulated in said endowed care **trust** funds, and these shall be the conditions of such surety bond; provided, however, the liability of the principal and surety on the bond shall in no event exceed thirty thousand dollars. Provided further, that whenever a cemetery owner which has made an initial deposit to the endowed care **trust** fund demonstrates to the satisfaction of the administrator of the office of endowed care cemeteries that more than twenty-five thousand dollars has been accumulated in the endowed care **trust** fund, the cemetery owner may petition the administrator of the office of endowed care cemeteries for an order to dissolve the surety bond requirement, so long as at least twenty-five thousand dollars always remains in the endowed care **trust** fund.

2. Construction of a mausoleum, lawn crypt, columbarium or crematorium as part of a cemetery then operated as an endowed care cemetery shall not be considered the establishment of a new cemetery for purposes of this section.

3. Any endowed care cemetery which does not maintain a [fully] **adequately** staffed office in the county in which the cemetery is located shall have prominently displayed on the premises a sign clearly stating the operator's name, address and telephone number. If the operator does

not reside in the county in which the cemetery is located, the sign shall also state the name, address and telephone number of a resident of the county who is the authorized agent of the operator or the location of an office of the cemetery which is within ten miles of such cemetery. In jurisdictions where ordinances require signs to meet certain specifications, a weatherproof notice containing the information required by this subsection shall be sufficient.

214.320. DEPOSITS IN FUND REQUIRED, AMOUNT — ANNUAL REPORT, FORM FURNISHED BY DIVISION — AUDITS MAY BE CONDUCTED, WHEN — EXEMPTION FROM CHAPTER 436 REQUIREMENTS, WHEN. — 1. An operator of an endowed care cemetery shall establish and deposit in an endowed care **trust** fund not less than the following amounts for burial space sold or disposed of, with such deposits to the endowed care **trust** fund to be made [semiannually] **monthly** on all burial space that has been fully paid for to the date of deposit:

(1) A minimum of fifteen percent of the gross sales price, or twenty dollars, whichever is greater, for each grave space sold;

(2) A minimum of ten percent of the gross sales price of each crypt or niche sold in a community mausoleum, or a minimum of one hundred dollars for each crypt or [ten dollars for each niche sold in a garden mausoleum] **fifty dollars for each niche sold in a community mausoleum, whichever is greater;**

(3) **A minimum of ten percent of the gross sales price of each crypt or niche sold in a garden mausoleum, or a minimum of one hundred dollars for each crypt or twenty-five dollars for each niche sold in a garden mausoleum, whichever is greater;**

(4) A minimum of [seventy-five dollars per grave space for] **ten percent of the gross sales price of each lawn crypt sold or a minimum of seventy-five dollars, whichever is greater.**

2. Notwithstanding the provisions of subdivision (2) of subsection 1 of this section, a cemetery operator who has made the initial deposit in trust as required by sections 214.270 to 214.410 from his own funds, and not from funds deposited with respect to sales of burial space, may deposit only one-half the minimum amounts set forth in subdivisions (1) and (2) of subsection 1 of this section, until he shall have recouped his entire initial deposit. Thereafter, he shall make the minimum deposits required under subdivisions (1), (2) [and] , (3), **and (4)** of subsection 1 of this section.

3. **As required by section 214.340,** each operator of an endowed care cemetery shall[, after August 28, 1990,] file with the division of professional registration, on a form provided by the division, an annual endowed care trust fund report. The operator of any cemetery representing the cemetery, or any portion of the cemetery, as an endowed care cemetery shall make available to the division for inspection or audit at any reasonable time only those cemetery records and trust fund records necessary to determine whether the cemetery's endowed care **trust** fund is in compliance with sections 214.270 to 214.410. Each cemetery operator who has established a [segregated] **escrow** account pursuant to section [214.385] **214.387** shall make available to the division for inspection or audit at any reasonable time those cemetery records and financial institution records necessary to determine whether the cemetery operator is in compliance with the provisions of section [214.385]. All documents, records, and work product from any inspections or audits performed by or at the direction of the division shall remain in the possession of the division of professional registration and shall not be sent to the state board of embalmers and funeral directors. No charge shall be made for such inspections or audits] **214.387.**

4. [If any endowed care cemetery operator conducts the trust fund accounting and record keeping outside of this state, then such operator shall maintain current and accurate copies of such accounting and record keeping within this state and such copies shall be readily available to the division for inspection or audit purposes.

5.] No cemetery operator shall operate or represent to the public by any title, description, or similar terms that a cemetery provides endowed care unless the cemetery is in compliance with the provisions of sections 214.270 to 214.410.

5. A cemetery operator shall be exempt from the provisions of chapter 436 for the sale of cemetery services or for grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches or mausoleums, outer burial containers or other receptacle. A cemetery operator shall be prohibited from adjusting or establishing the sales price of items with the intent of evading the trusting or escrow provisions of this chapter.

214.325. REQUIRED DEPOSITS — DEFICIENCY — EFFECT — PENALTY. — If the deposits to any endowed care trust fund [required by sections 214.270 to 214.410] are less than the total sum required to be set aside and deposited since the effective date of such sections, the cemetery operator shall correct such deficiency by depositing not less than twenty percent of such deficiency each year for five years [following August 28, 1990,] and shall file, on the form provided by the division, a statement outlining the date and amount such deposits were made. If the cemetery operator fails to correct the deficiency **with respect to funds maintained under section 214.330**, the cemetery operator shall thereafter not represent the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be used for endowed care for that cemetery. The cemetery operator shall remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section of the cemetery for which endowed care payments have been collected, subject to the penalties contained in section 214.410, and civil actions as well as subject to any regulations promulgated by the division. **For purposes of this section, the term "deficiency" shall mean a deficiency in the amount required to be deposited pursuant to section 214.320, or a deficiency created by disbursements in excess of what is permitted under section 214.330 and shall not include or be affected by deficiencies or shortages caused by the fluctuating value of investments.**

214.330. ENDOWED CARE FUND HELD IN TRUST OR SEGREGATED ACCOUNT — REQUIREMENTS — DUTIES OF TRUSTEE OR INDEPENDENT INVESTMENT ADVISOR — OPERATOR'S DUTIES — ENDOWED CARE FUND AGREEMENT. — 1. [The endowed care fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state- or federally chartered financial institution authorized to exercise trust powers in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least annually or in other convenient installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the trustee, or the independent investment advisor. An endowed care trust agreement may provide that when the principal in an endowed care trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the cemetery owner, relieving the trustee of all liability regarding investment decisions made by such qualified investment advisor. It shall be the duty of the trustee, or the investment advisor, in the investment of such funds to exercise the diligence and care men of ordinary prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The trustee's duties shall be the maintenance of records and the accounting for and investment of moneys deposited by the operator to the endowed care fund. For the purposes of sections 214.270 to 214.410, the trustee or investment advisor shall not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, including, but not limited to, compliance with environmental laws and regulations. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the

cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

2. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section then the funds shall be permanently set aside in a segregated bank account which requires the signature of the cemetery owner and either the administrator of the office of endowed care cemeteries, or the signature of a licensed practicing attorney with escrow powers in this state as joint signatories for any distribution from the trust fund. No funds shall be expended without the signature of either the administrator of the office of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in the state- or federally chartered financial institution authorized to do business in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least in annual or semiannual installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the cemetery operator with written approval of either the administrator of the office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty of the cemetery owner in the investment of such funds to exercise the diligence and care a person of reasonable prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The cemetery owner's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

3. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

4. All endowed care funds shall be administered in accordance with an endowed care fund agreement. The endowed care fund agreement shall be subject to review and approval by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding the approval or disapproval of the endowed care fund agreement and regarding any changes required to be made for compliance with this chapter and the rules and regulations promulgated thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the office of endowed care cemeteries. The office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state shall notify the endowed care cemetery in writing of approval and of any required change. Any amendment or change to the endowed care fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed practicing attorney with escrow powers in this state for review and approval. Said amendment or change shall not be effective until approved by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries or with a licensed practicing attorney with escrow powers in this state and to submit for approval any and all changes, amendment, or revisions of the endowed care fund agreement.

5. No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411, RSMo.] **The endowed care trust fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The contact information for a trust officer or duly appointed representative of the trustee with knowledge and access to the trust fund accounting and trust fund records must be disclosed to the office or its duly authorized representative upon request.**

(1) The trust fund records, including all trust fund accounting records, shall be maintained in the state of Missouri at all times or shall be electronically stored so that the records may be made available in the state of Missouri within fifteen business days of receipt of a written request. The operator of an endowed care cemetery shall maintain a current name and address of the trustee and the records custodian for the endowed care trust fund and shall supply such information to the office, or its representative, upon request;

(2) Missouri law shall control all endowed care trust funds and the Missouri courts shall have jurisdiction over endowed care trusts regardless of where records may be kept or various administrative tasks may be performed.

2. An endowed care trust fund shall be administered in accordance with Missouri law governing trusts, including but not limited to the applicable provisions of chapters 456 and 469, except as specifically provided in this subsection or where the provisions of sections 214.270 to 214.410 provide differently, provided that a cemetery operator shall not in any circumstances be authorized to restrict, enlarge, change, or modify the requirements of this section or the provisions of chapters 456 and 469 by agreement or otherwise.

(1) Income and principal of an endowed care trust fund shall be determined under the provisions of law applicable to trusts, except that the provisions of section 469.405 shall not apply.

(2) No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411.

(3) No right to transfer jurisdiction from Missouri under section 456.1-108 shall exist for endowed care trusts.

(4) All endowed care trusts shall be irrevocable.

(5) No trustee shall have the power to terminate an endowed care trust fund under the provisions of section 456.4-414.

(6) A unitrust election made in accordance with the provisions of chapter 469 shall be made by the cemetery operator in the terms of the endowed care trust fund agreement itself, not by the trustee.

(7) No contract of insurance shall be deemed a suitable investment for an endowed care trust fund.

(8) The income from the endowed care fund may be distributed to the cemetery operator at least annually on a date designated by the cemetery operator, but no later than sixty days following the end of the trust fund year. Any income not distributed within sixty days following the end of the trust's fiscal year shall be added to and held as part of the principal of the trust fund.

3. The cemetery operator shall have the duty and responsibility to apply the income distributed to provide care and maintenance only for that part of the cemetery designated as an endowed care section and not for any other purpose.

4. In addition to any other duty, obligation, or requirement imposed by sections 214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the

maintenance of records related to the trust and the accounting for and investment of moneys deposited by the operator to the endowed care trust fund.

(1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, or the proper expenditure of funds distributed by the trustee to the cemetery operator, including, but not limited to, compliance with environmental laws and regulations.

(2) With respect to cemetery property maintained by endowed care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property.

5. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section, then the funds shall be permanently set aside in an escrow account in the state of Missouri. Funds in an escrow account shall be placed in an endowed care trust fund under subsection 1 if the funds in the escrow account exceed three hundred fifty thousand dollars, unless otherwise approved by the division for good cause. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in a state or federally chartered financial institution authorized to do business in Missouri and located in this state.

(1) The interest from the escrow account may be distributed to the cemetery operator at least in annual or semiannual installments, but not later than six months following the calendar year. Any interest not distributed within six months following the end of the calendar year shall be added to and held as part of the principal of the account.

(2) The cemetery operator shall have the duty and responsibility to apply the interest to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the escrow account shall have been established and not for any other purpose. The principal of such funds shall be kept intact. The cemetery operator's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the escrow account. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator.

(3) The division may approve an escrow agent if the escrow agent demonstrates the knowledge, skill, and ability to handle escrow funds and financial transactions and is of good moral character.

6. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

7. Excluding funds held in an escrow account, all endowed care trust funds shall be administered in accordance with an endowed care trust fund agreement, which shall be submitted to the office by the cemetery operator for review and approval. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries regarding the approval or disapproval of the endowed care trust fund agreement and regarding any changes required to be made for compliance with sections 214.270 to 214.410 and the rules and regulations promulgated thereunder.

8. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries and to submit for prior approval any and all changes, amendments, or revisions of the endowed care trust fund agreement, at least thirty days before the effective date of such change, amendment, or revision.

9. If the endowed care trust fund agreement, or any changes, amendments, or revisions filed with the office, are not disapproved by the office within thirty days after submission by the cemetery operator, the endowed care trust fund agreement, or the

related change, amendment, or revision, shall be deemed approved and may be used by the cemetery operator and the trustee. Notwithstanding any other provision of this section, the office may review and disapprove an endowed care trust fund agreement, or any submitted change, amendment, or revision, after the thirty days provided herein or at any other time if the agreement is not in compliance with sections 214.270 to 214.410 or the rules promulgated thereunder. Notice of disapproval by the office shall be in writing and delivered to the cemetery operator and the trustee within ten days of disapproval.

10. Funds in an endowed care trust fund or escrow account may be commingled with endowed care funds for other endowed care cemeteries, provided that the cemetery operator and the trustee shall maintain adequate accounting records of the disbursements, contributions, and income allocated for each cemetery.

11. By accepting the trusteeship of an endowed care trust or accepting funds as an escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits personally to the jurisdiction of the courts of this state and the office of endowed care cemeteries regarding the administration of the trust or escrow account. A trustee or escrow agent shall consent in writing to the jurisdiction of the state of Missouri and the office in regards to the trusteeship or the operation of the escrow account and to the appointment of the office of secretary of state as its agent for service of process regarding any administrative or legal actions relating to the trust or the escrow account, if it has no designated agent for service of process located in this state. Such consent shall be filed with the office prior to accepting funds pursuant to sections 214.270 to 214.410 as trustee or as an escrow agent on a form provided by the office by rule.

214.335. CONTRIBUTIONS TO ENDOWED CARE FUND FOR MEMORIAL OR MONUMENT — DEFICIENCY, EFFECT OF. — 1. Any endowed care cemetery may require a contribution to the endowed care fund or to a separate memorial care fund for each memorial or monument installed on a grave in the cemetery. Such contribution, if required by a cemetery, shall not exceed twenty cents per square inch of base area, and shall be charged on every installation regardless of the person performing the installation. Each contribution made pursuant to a contract or agreement entered into after August 28, 1990, shall be entrusted and administered pursuant to sections 214.270 to 214.410 for the endowed care fund. Each contribution made pursuant to a contract or agreement entered into before August 28, 1990, shall be governed by the law in effect at the time the contract or agreement was entered into.

2. If the deposits to any endowed care trust fund are less than the total sum required to be set aside and deposited since the effective date of such sections, the cemetery operator shall correct such deficiency by depositing not less than twenty percent of such deficiency each year for five years and shall file, on the form provided by the division, a statement outlining the date and amount such deposits were made. If the cemetery operator fails to correct the deficiency with respect to funds maintained under section 214.330, the cemetery operator shall thereafter not represent the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be used for endowed care for that cemetery. The cemetery operator shall remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section of the cemetery for which endowed care payments have been collected, subject to the penalties contained in section 214.410, and civil actions, as well as subject to any regulations promulgated by the division. For purposes of this section, the term "deficiency" shall mean a deficiency in the amount required to be deposited pursuant to subsection 1 of this section, or a deficiency created by disbursements in excess of what is permitted under section 214.330 and shall not include or be affected by deficiencies or shortages caused by the fluctuating value of investments.

214.340. REPORT REQUIRED — CONTENT — OATH — FILING REQUIRED. — 1. Each operator of an endowed care cemetery shall maintain at an office in the cemetery or, if the cemetery has no office in the cemetery, at an office within a reasonable distance of the cemetery, the reports of the endowed care **trust** fund's operation for the preceding seven years. Each report shall contain, at least, the following information:

(1) Name and address of the trustee of the endowed care **trust** fund and the depository, if different from the trustee;

(2) Balance per previous year's report;

(3) Principal contributions received since previous report;

(4) Total earnings since previous report;

(5) Total distribution to the cemetery operator since the previous report;

(6) Current balance;

(7) A statement of all assets listing cash, real or personal property, stocks, bonds, and other assets, showing cost, acquisition date and current market value of each asset;

(8) Total expenses, excluding distributions to cemetery operator, since previous report; and

(9) A statement of the cemetery's total acreage and of its developed acreage.

2. Subdivisions (1) through (7) of the report described in subsection 1 above shall be certified to under oath as complete and correct by a corporate officer of the trustee. Subdivision (8) of such report shall be certified under oath as complete and correct by an officer of the cemetery operator. Both the trustee and cemetery operator or officer shall be subject to the penalty of making a false affidavit or declaration.

3. The report shall be placed in the cemetery's office within ninety days of the close of the trust's fiscal year. A copy of this report shall be filed by the cemetery operator with the division of professional registration as condition of license renewal as required by subsection 4 of section 214.275. [The report shall not be sent to the state board of embalmers and funeral directors.]

4. Each cemetery operator who establishes [a segregated] **an escrow or trust** account pursuant to [subsection 1 of section 214.385] **section 214.387** shall file with the report required under subsection 1 of this section [a segregated] **an escrow or trust** account report that shall provide the following information:

(1) The [number of monuments, markers and memorials] **total face value of all contracts for burial merchandise and services** that have been deferred for delivery by purchase designation; **and**

(2) [The aggregate wholesale cost of all such monuments, markers and memorials; and

(3)] The amount on deposit in the [segregated] **escrow or trust** account established pursuant to section [214.385] **214.387**, and the account number **in the case of an escrow account**.

214.345. SALE OF CEMETERY PLOT — WRITTEN STATEMENT TO BE GIVEN TO PURCHASER — COPY OF ANNUAL REPORT TO BE AVAILABLE TO PUBLIC. — 1. Any cemetery operator who negotiates the sale of burial space in any cemetery located in this state shall provide each prospective owner of burial space a written statement, which may be a separate form or a part of the sales contract, which states and explains in plain language that the burial space is part of an endowed care cemetery; that the cemetery has established and maintains the endowed care **trust** fund required by law; and that the information regarding the fund described in section 214.340 is available to the prospective purchaser. If the burial space is in a nonendowed cemetery, or in a nonendowed section of an endowed care cemetery, the cemetery operator shall state he has elected not to establish an endowed care **trust** fund.

2. The operator of each endowed care cemetery shall, upon request, give to the public for retention a copy of the endowed care **trust** fund annual report prepared pursuant to the provisions of subsection 1 of section 214.340.

214.360. PRIVATE USE OF TRUST FUNDS PROHIBITED. — No cemetery operator, nor any director, officer or shareholder of any cemetery may borrow or in any other way make use of the endowed care **trust** funds for his own use, directly or indirectly, or for furthering or developing his or any other cemetery, nor may any trustee lend or make such funds available for said purpose or for the use of any operator or any director, officer or shareholder of any cemetery.

214.363. BANKRUPTCY, ASSIGNMENT FOR BENEFIT OF CREDITORS, ENDOWED CARE FUND EXEMPT. — In the event of a cemetery's bankruptcy, insolvency, or assignment for the benefit of creditors, the endowed care **trust** funds shall not be available to any creditor as assets of the cemetery's owner or to pay any expenses of any bankruptcy or similar proceeding, but shall be retained intact to provide for the future maintenance of the cemetery.

214.365. CEMETERY FAILING TO PROVIDE MAINTENANCE — ABANDONMENT OR CEASING TO OPERATE, DIVISION'S DUTIES. — Prior to any action as provided in subsection 2 of section 214.205, and when the division has information that a [public] cemetery is not providing maintenance and care, has been abandoned, or has ceased operation, the division may investigate the cemetery to determine the cemetery's current status. If the division finds evidence that the cemetery is abandoned, is not conducting business, or is not providing maintenance and care, the division may apply to the circuit court for appointment as receiver, trustee, or successor in trust.

214.367. SALE OF ASSETS, NOTICE REQUIRED — PROSPECTIVE PURCHASER OF ENDOWED CARE CEMETERY, RIGHT TO RECENT AUDIT — RIGHT TO CONTINUE OPERATION, NOTIFICATION BY DIVISION. — **1.** Prior to selling or otherwise disposing of a majority of the business assets of a cemetery, or a majority of its stock or other ownership interest, if a corporation or other organized business entity, the cemetery operator shall provide written notification to the division of its intent at least thirty days prior to the date set for the transfer, or the closing of the sale, or the date set for termination of its business. Such notice is confidential and shall not be considered a public record subject to the provisions of chapter 610 until the sale of the cemetery has been effectuated. Upon receipt of the written notification, the division may take reasonable and necessary action to determine that the cemetery operator has made proper plans to assure that trust funds or funds held in an escrow account for or on behalf of the cemetery will be set aside and used as provided in sections 214.270 to 214.410, including, but not limited to, an audit or examination of books and records. The division may waive the requirements of this subsection or may shorten the period of notification for good cause or if the division determines in its discretion that compliance with its provisions are not necessary.

2. A cemetery operator may complete the sale, transfer, or cessation if the division does not disapprove the transaction within thirty days after receiving notice. Nothing in this section shall be construed to restrict any other right or remedy vested in the division or the attorney general.

3. A prospective purchaser or transferee of [any endowed care] **endowed or unendowed** cemetery, with the written consent of the cemetery operator, may obtain a copy of the cemetery's most recent audit or inspection report from the division. The division shall inform the prospective purchaser or transferee, within thirty days, whether the cemetery may continue to operate and be represented as [an endowed care] **a** cemetery.

214.387. BURIAL MERCHANDISE OR SERVICES, DEFERRAL OF DELIVERY, WHEN — ESCROW ARRANGEMENT — DISTRIBUTION OF MONEYS — CANCELLATION. — **1.** [Upon written instructions from the purchaser of burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date

designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is canceled. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided.

2. Upon written instructions from the purchaser of an interment, entombment, or inurnment cemetery service, a cemetery may defer performance of such service to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the agreement is paid in full, deposits from its own funds an amount equal to eighty percent of the published retail price into a trustee account. Funds deposited in a trustee account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the service is made or the agreement for the purchase of the service is canceled. No withdrawals may be made from the trustee account established pursuant to this section and section 214.385 except as provided herein. Money in this account shall be invested utilizing the prudent man theory and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

3. Upon the delivery of the interment, entombment, or inurnment cemetery service agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase of such service, the cemetery operator may withdraw from the trustee account an amount equal to (i) the market value of the trustee account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the aggregate deposit of all services which are paid in full but not delivered. The trustee account may be inspected or audited by the division.

4. The provisions of this section shall apply to all agreements entered into after August 28, 2002.] **With the exception of sales made pursuant to section 214.385, all sales of prearranged burial merchandise and services shall be made pursuant to this section.**

2. Upon written instructions from the purchaser of burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs associated with the sale, not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is cancelled, and fees and costs associated with the maintenance of the trust or escrow arrangement shall be charged to these funds. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided.

3. Each escrow arrangement must comply with the following:

(1) The escrow agent shall be located in Missouri, authorized to exercise escrow powers, and shall maintain the escrow records so that they may be accessed and produced for inspection within five business days of the agent's receipt of a written request made by the office or its duly authorized representative. A cemetery operator shall not serve as an escrow agent for the cemetery operator's account nor shall the escrow agent be employed by or under common ownership with the cemetery operator. The cemetery operator shall maintain a current name and address for the escrow agent with the office, and shall obtain written approval from the office before making any change in the name or

address of the escrow agent. Notwithstanding any other provision of law, information regarding the escrow agent shall be deemed an open record;

(2) The escrow account funds shall be maintained in depository accounts at a Missouri financial institution that provides Federal Deposit Insurance Corporation or comparable deposit insurance;

(3) The escrow arrangement shall be administered by the escrow agent pursuant to an agreement approved by the office under the same filing and approval procedure as that set forth for endowed care trust fund agreements in section 214.330;

(4) The operator shall establish a separate depository account for each cemetery prearranged contract administered pursuant to this subsection;

(5) The division may promulgate by rule a form escrow agreement to be used by a cemetery operator operating pursuant to this section.

4. Each trust must comply with the following:

(1) The trustee shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri, provided that a foreign financial institution must be approved by the office;

(2) The trust fund records, including all trust fund accounting records, shall either be maintained in the state of Missouri or shall be electronically stored so that the records may be made available within fifteen business days of the trustee's receipt of a written request made by the office or its duly authorized representative. The cemetery operator shall maintain a current name and address of the trustee and the records custodian and shall supply such information to the office or its representative upon request;

(3) The principal of such funds shall be appropriately invested pursuant to the prudent investor rule under chapter 469, provided that no trust funds shall be invested in any term insurance product;

(4) Payments regarding two or more cemetery prearranged contracts may be deposited into and commingled in the same trust, so long as adequate records are made available to the trustee to account for cemetery prearranged contracts on an individual basis with regard to deposits, earnings, distributions, and any taxes;

(5) Trust instruments shall be subject to the same filing and approval procedure as that set forth for endowed care trust fund agreements under section 214.330;

(6) A trustee may commingle the funds from trusts of unrelated cemetery operators for investment purposes if the trustee has adequate accounting for the allocations, disbursements, payments, and income among the participating trusts.

5. The income from escrow accounts, after payment of expenses associated with the arrangement, shall be distributed to the cemetery operator. All other distributions from trusts and escrow accounts shall be made pursuant to forms approved by the office. For performance of a cemetery prearranged contract, a certificate of performance form signed by the cemetery operator shall be required for distribution. For cancellation of a cemetery prearranged contract, a certificate of cancellation form signed by the cemetery operator and the purchaser shall be required for distribution.

6. A cemetery prearranged contract is subject to cancellation as follows:

(1) At any time before the final disposition of the deceased, or before the services or merchandise described in this section are provided, the purchaser may cancel the contract without cause by delivering written notice thereof to the operator. Within fifteen days after its receipt of such notice, the cemetery operator shall pay to the purchaser a net amount equal to eighty percent of all payments made under the contract. The cemetery operator shall be entitled to keep one-half of the interest earned on trust funds. Upon delivery of the purchaser's receipt for such payment to the escrow agent or trustee, the escrow agent or trustee shall distribute to the cemetery operator from the escrow account or trust an amount equal to all deposits made into the escrow account or trust for the contract;

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if a purchaser is eligible, becomes eligible, or desires to become eligible, to receive public assistance under chapter 208 or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel the contract pursuant to the provisions of subdivision (1) of this section, which waiver and renunciation shall be made in writing and delivered to the cemetery operator;

(3) Notwithstanding the provisions of subdivision (1) of this subsection, any purchaser, within thirty days of receipt of the executed contract, may cancel the contract without cause by delivering written notice thereof to the cemetery operator, and receive a full refund of all payments made on the contract;

(4) Notwithstanding the provisions of subdivision (1) of this subsection, once any purchase order is entered for the production or manufacture of burial merchandise, per the purchaser's written request, the purchaser's obligation to pay for said burial merchandise shall be noncancellable;

(5) No funds subject to a purchaser's right of cancellation hereunder shall be subject to the claims of the cemetery operator's creditors.

7. Burial merchandise sold through a contract with a cemetery or cemetery operator which is entered into after the death of the individual for whom the burial merchandise is intended shall not be subject to any trusting or escrow requirement of this section.

8. This section shall apply to all agreements entered into after August 28, 2010.

214.389. SUSPENSION OF DISTRIBUTION, WHEN, PROCEDURE. — 1. The division may direct a trustee, financial institution, or escrow agent to suspend distribution from an endowed care trust fund or escrow account if the cemetery operator does not have a current and active cemetery operator license, has failed to file an annual report, or if, after an audit or examination, the division determines there is a deficiency in an endowed care trust fund or escrow account maintained under section 214.330 and the cemetery operator has failed to file a corrective action plan detailing how the deficiency shall be remedied. For purposes of this section, a deficiency shall only be deemed to exist if, after an audit or examination, the division determines a cemetery operator has failed to deposit the total aggregate of funds required to be deposited in trust or an escrow account pursuant to section 214.320 or subsection 1 of section 214.335, or has received disbursements from the trust or escrow account in excess of what is permitted under section 214.330. No deficiency shall be deemed to be created by fluctuations in the value of investments held in trust or escrow.

2. The division shall provide written notification to the cemetery operator and the trustee, financial institution, or escrow agent within fourteen days of discovering a potential violation as described in this section. Upon receipt of written notification from the division, the cemetery operator shall have sixty days to cure any alleged violations or deficiencies cited in the notification without a suspension of distribution. If, after the sixty-day time period, the division feels the cemetery has not cured the alleged violations or deficiencies cited in the notification, the division may send a notice of suspension to the cemetery operator that the division is ordering a suspension of distribution as described in this section. In the event of a suspension of distribution, the amount of any distribution suspended shall become principal, with credit against the deficiency, unless the cemetery operator files an appeal with a court of competent jurisdiction or with the administrative hearing commission, as provided herein. In the event of an appeal, a cemetery operator may request the court or administrative hearing commission stay the suspension of distribution after a showing of necessity and good cause or authorize payment from the endowed care trust fund or escrow account for necessary expenses from any amount subject to distribution.

3. Upon receipt of an order from the division suspending distribution pursuant to this section, a trustee, financial institution, or escrow agent shall immediately suspend distribution as required by the order. A trustee, financial institution, or escrow agent shall be exempt from liability for failure to distribute funds as ordered by the division.

4. A cemetery operator may appeal an order suspending distribution pursuant to this section to the administrative hearing commission. The administrative hearing commission shall receive notice of such appeal within thirty days from the date the notice of suspension was mailed by certified mail. Failure of a person whose license was suspended to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the suspension. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission pursuant to chapter 621.

5. A cemetery operator may apply for reinstatement of distributions upon demonstration that the deficiencies or other problems have been cured or that the operator has otherwise come into compliance.

6. The division may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

214.392. DIVISION OF PROFESSIONAL REGISTRATION, DUTIES AND POWERS IN REGULATION OF CEMETERIES — RULEMAKING AUTHORITY. — 1. The division shall:

(1) Recommend prosecution for violations of the provisions of sections 214.270 to 214.410 to the appropriate prosecuting, circuit attorney or to the attorney general;

(2) Employ, within limits of the funds appropriated, such employees as are necessary to carry out the provisions of sections 214.270 to 214.410;

(3) Be allowed to convey full authority to each city or county governing body the use of inmates controlled by the department of corrections and the board of probation and parole to care for abandoned cemeteries located within the boundaries of each city or county;

(4) Exercise all budgeting, purchasing, reporting and other related management functions;

(5) **Be authorized, within the limits of the funds appropriated to conduct investigations, examinations, or audits to determine compliance with sections 214.270 to 214.410;**

(6) The division may promulgate rules necessary to implement the provisions of sections 214.270 to 214.516, including but not limited to:

(a) Rules setting the amount of fees authorized pursuant to sections 214.270 to 214.516. The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and expense of administering sections 214.270 to 214.516. All moneys received by the division pursuant to sections 214.270 to 214.516 shall be collected by the director who shall transmit such moneys to the department of revenue for deposit in the state treasury to the credit of the endowed care cemetery audit fund created in section 193.265, RSMo;

(b) Rules to administer the inspection and audit provisions of the endowed care cemetery law;

(c) Rules for the establishment and maintenance of the cemetery registry pursuant to section 214.283.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section

536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

214.400. CITATION OF LAW. — Sections 214.270 to 214.410 shall be known as the "Cemetery Endowed Care **Trust** Fund Law".

214.410. VIOLATION OF LAW, PENALTY. — 1. Any cemetery operator who shall willfully violate any provisions of sections 214.270 to 214.410 for which no penalty is otherwise prescribed shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed five hundred dollars or shall be confined not more than six months or both.

2. Any cemetery operator who shall willfully violate any provision of [section] **sections** 214.320, 214.330, 214.335, 214.340, 214.360 [or] , 214.385, **or 214.387** shall be deemed guilty of a class D felony and upon conviction thereof shall be fined a sum not to exceed ten thousand dollars or shall be confined not more than five years or both. This section shall not apply to cemeteries or cemetery associations which do not sell lots in the cemetery.

3. Any trustee who shall willfully violate any applicable provisions of sections 214.270 to 214.410 shall have committed an unsafe and unsound banking practice and shall be penalized as authorized by chapters 361 and 362, RSMo. This subsection shall be enforced exclusively by the Missouri division of finance for state chartered institutions and the Missouri attorney general for federally chartered institutions.

4. Any person who shall willfully violate any provision of section 214.320, 214.330, 214.335, 214.340, 214.360 or 214.385 or violates any rule, regulation or order of the division may, in accordance with the regulations issued by the division, be assessed an administrative penalty by the division. The penalty shall not exceed five thousand dollars for each violation and each day of the continuing violation shall be deemed a separate violation for purposes of administrative penalty assessment. However, no administrative penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation. Penalty assessments received shall be deposited in the endowed care cemetery audit fund created in section 193.265, RSMo.

214.500. CEMETERIES ACQUIRED BY A CITY AT TAX SALES OR AS NUISANCES MAY BE SOLD. — Any cemetery located in a city [not within a county,] which has become the property of such city pursuant to section 214.205 or a public tax sale may be sold to another cemetery operator or a not-for-profit corporation which is unrelated to the previous cemetery operator.

214.504. NO LIABILITY FOR NEW CEMETERY OPERATORS, WHEN — RIGHTS OF HOLDERS OF CONTRACTS FOR BURIAL. — Any cemetery operator who purchases a cemetery from a city [not within a county] pursuant to sections 214.500 to 214.516 shall not be liable for any wrongful interments or errors made in the sale of plots prior to the cemetery operator's purchase of the cemetery, nor shall such cemetery operator be liable for multiple ownership of plots sold by such cemetery operator due to a lack of adequate records in such cemetery operator's possession at the time of such cemetery operator's purchase of such cemetery from the city, provided the cemetery operator offers a plot of equal value for the interment, if such party can prove ownership of the right to bury a person by presenting a contract for the right to burial.

214.508. PREVIOUS CEMETERY OWNER LIABLE, WHEN. — Any cemetery operator who purchases a cemetery from a city [not within a county] shall not be held liable or responsible for any conditions existing or actions taken which occurred prior to the cemetery operator's purchase

from such city; except that, the exemption provided in this section shall not relieve any previous owner or wrongdoer for their actions related to such cemetery.

214.512. NEW CEMETERY OWNER NOT LIABLE FOR DEFICIENCIES, EXCEPTION. — Any subsequent cemetery owner after a city [not within a county] shall be exempt from the provisions of section 214.325 and section 214.410 for any deficiency existing prior to such city's ownership; except that, such exemption shall not relieve any previous cemetery owners or wrongdoers from the provisions of such sections.

214.516. REGISTRATION AS AN ENDOWED CARE CEMETERY, WHEN — COMPLIANCE WITH ENDOWED CARE CEMETERY LAW REQUIRED. — Any cemetery owner subsequent to a city [not within a county], regardless of whether such cemetery was previously registered as an endowed care cemetery, held itself out to be an endowed care cemetery or was a nonendowed care cemetery, shall comply with section 214.310 and register such cemetery as an endowed care cemetery as if it were a newly created cemetery with no interments at the time of such registration. Any contracts for the right of burial sold after compliance with section 214.310 and all subsequent action of a subsequent cemetery owner shall comply fully with the provisions of sections 214.270 to 214.410.

214.550. SCATTER GARDENS, OPERATION BY CHURCHES MAINTAINING RELIGIOUS CEMETERIES — MAINTENANCE OF GARDEN AND RECORDS, DUTY OF OPERATOR. — 1. For purposes of this section, the following terms mean:

(1) "Cremains", the [ashes that remain after cremation of a human corpse] **remains of a human corpse after cremation**;

(2) "Operator", a church that owns and maintains a religious cemetery;

(3) "Religious cemetery", a cemetery owned, operated, controlled, or managed by any church that has or would qualify for federal tax-exempt status as a nonprofit religious organization pursuant to section 501(c) of the Internal Revenue Code as amended;

(4) "Scatter garden", a location for the spreading of cremains set aside within a cemetery.

2. It shall be lawful for any operator of a religious cemetery adjacent to a church building or other building regularly used as a place of worship to establish a scatter garden for the purpose of scattering human cremains.

3. The operator of any religious cemetery containing a scatter garden shall maintain, protect, and supervise the scatter garden, and shall be responsible for all costs incurred for such maintenance, protection, and supervision. Such operator shall also maintain a record of all cremains scattered in the scatter garden that shall include the name, date of death, and Social Security number of each person whose cremains are scattered, and the date the cremains were scattered.

4. A scatter garden established pursuant to this section shall be maintained by the operator of the religious cemetery for as long as such operator is in existence. Upon dissolution of such operator, all records of cremains shall be transferred to the clerk of the city, town, or village in which the scatter garden is located, or if the scatter garden is located in any unincorporated area, to the county recorder.

246.310. INAPPLICABILITY OF CERTAIN LAW REGARDING ABEYANCE OF WATER AND SEWER ASSESSMENTS. — **The provisions of section 262.802 shall not apply to any drainage district or levee district formed under the laws of this state.**

288.034. EMPLOYMENT DEFINED. — 1. "Employment" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied, and notwithstanding any other provisions of this section, service with respect to which a tax is required to be paid under any federal unemployment tax law imposing a tax

against which credit may be taken for contributions required to be paid into a state unemployment fund or which, as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required to be covered under this law.

2. The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

- (1) The service is localized in this state; or
- (2) The service is not localized in any state but some of the service is performed in this state and the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state.

3. Service performed by an individual for wages shall be deemed to be employment subject to this law:

- (1) If covered by an election filed and approved pursuant to subdivision (2) of subsection 3 of section 288.080;

- (2) If covered by an arrangement pursuant to section 288.340 between the division and the agency charged with the administration of any other state or federal unemployment insurance law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state.

4. Service shall be deemed to be localized within a state if the service is performed entirely within such state; or the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

5. Service performed by an individual for remuneration shall be deemed to be employment subject to this law unless it is shown to the satisfaction of the division that such services were performed by an independent contractor. In determining the existence of the independent contractor relationship, the common law of agency right to control shall be applied. The common law of agency right to control test shall include but not be limited to: if the alleged employer retains the right to control the manner and means by which the results are to be accomplished, the individual who performs the service is an employee. If only the results are controlled, the individual performing the service is an independent contractor.

6. The term "employment" shall include service performed for wages as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his or her principal; or as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations, provided:

- (1) The contract of service contemplates that substantially all of the services are to be performed personally by such individual; and
- (2) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and
- (3) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

7. Service performed by an individual in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing which is wholly owned by this state and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this state or of any political subdivision thereof, and one or more other states or political subdivisions, provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by Section 3306(c)(7) of that

act and is not excluded from "employment" pursuant to subsection 9 of this section, shall be "employment" subject to this law.

8. Service performed by an individual in the employ of a corporation or any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, or other organization described in Section 501(c)(3) of the Internal Revenue Code which is exempt from income tax under Section 501(a) of that code if the organization had four or more individuals in employment for some portion of a day in each of twenty different weeks whether or not such weeks were consecutive within a calendar year regardless of whether they were employed at the same moment of time shall be "employment" subject to this law.

9. For the purposes of subsections 7 and 8 of this section, the term "employment" does not apply to service performed:

(1) In the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of such minister's ministry or by a member of a religious order in the exercise of duties required by such order; or

(3) In the employ of a governmental entity referred to in subdivision (3) of subsection 1 of section 288.032 if such service is performed by an individual in the exercise of duties:

(a) As an elected official;

(b) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

(c) As a member of the state national guard or air national guard;

(d) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(e) In a position which, under or pursuant to the laws of this state, is designated as (i) a major nontenured policy-making or advisory position, or (ii) a policy-making or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week; or

(4) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(5) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(6) By an inmate of a custodial or penal institution; or

(7) In the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance.

10. The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada), if:

(1) The employer's principal place of business in the United States is located in this state; or

- (2) The employer has no place of business in the United States, but:
 - (a) The employer is an individual who is a resident of this state; or
 - (b) The employer is a corporation which is organized under the laws of this state; or
 - (c) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or
- (3) None of the criteria of subdivisions (1) and (2) of this subsection is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state;

(4) As used in this subsection and in subsection 11 of this section, the term "United States" includes the states, the District of Columbia and the Commonwealth of Puerto Rico.

11. An "American employer", for the purposes of subsection 10 of this section, means a person who is:

- (1) An individual who is a resident of the United States; or
 - (2) A partnership, if two-thirds or more of the partners are residents of the United States;
- or
- (3) A trust, if all of the trustees are residents of the United States; or
 - (4) A corporation organized under the laws of the United States or of any state.

12. The term "employment" shall not include:

- (1) Service performed by an individual in agricultural labor;
- (a) For the purposes of this subdivision, the term "agricultural labor" means remunerated service performed:

a. On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

b. In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

c. In connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Federal Agricultural Marketing Act, as amended (46 Stat. 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

d. i. In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

ii. In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of services described in item i of this subparagraph, but only if such operators produced more than one-half of the commodity with respect to which such service is performed;

iii. The provisions of items i and ii of this subparagraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

e. On a farm operated for profit if such service is not in the course of the employer's trade or business. As used in this paragraph, the term "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other

similar structures, used primarily for the raising of agricultural or horticultural commodities, and orchards;

(b) The term "employment" shall include service performed after December 31, 1977, by an individual in agricultural labor as defined in paragraph (a) of this subdivision when such service is performed for a person who, during any calendar quarter, paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor or for some portion of a day in a calendar year in each of twenty different calendar weeks, whether or not such weeks were consecutive, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time;

(c) For the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be considered as employed by such crew leader:

a. If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

b. If such individual is not in employment by such other person;

c. If any individual is furnished by a crew leader to perform service in agricultural labor for any other person and that individual is not in the employment of the crew leader:

i. Such other person and not the crew leader shall be treated as the employer of such individual; and

ii. Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his or her own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person;

d. For the purposes of this subsection, the term "crew leader" means an individual who:

i. Furnishes individuals to perform service in agricultural labor for any other person;

ii. Pays (either on his or her own behalf or on behalf of such other person) the individuals so furnished by him or her for the service in agricultural labor performed by them; and

iii. Has not entered into a written agreement with such other person under which such individual is designated as in employment by such other person;

(2) Domestic service in a private home except as provided in subsection 13 of this section;

(3) Service performed by an individual under the age of eighteen years in the delivery or distribution of newspapers or shopping news but shall not include delivery or distribution to any point for subsequent delivery or distribution;

(4) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(5) Service performed by an individual in the employ of his or her son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his or her father or mother;

(6) Except as otherwise provided in this law, service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(7) Services with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of Congress;

-
- (8) Service performed in the employ of a foreign government;
- (9) Service performed in the employ of an instrumentality wholly owned by a foreign government:
- (a) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
- (b) If the division finds that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof. The certification of the United States Secretary of State to the United States Secretary of Treasury shall constitute prima facie evidence of such equivalent exemption;
- (10) Service covered by an arrangement between the division and the agency charged with the administration of any other state or federal unemployment insurance law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's approved election are deemed to be performed entirely within the jurisdiction of such other state or federal agency;
- (11) Service performed in any calendar quarter in the employ of a school, college or university not otherwise excluded, if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed fifty dollars (exclusive of board, room, and tuition);
- (12) Service performed by an individual for a person as a licensed insurance agent, a licensed insurance broker, or an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commissions;
- (13) Domestic service performed in the employ of a local college club or of a local chapter of a college fraternity or sorority, except as provided in subsection 13 of this section;
- (14) Services performed after March 31, 1982, in programs authorized and funded by the Comprehensive Employment and Training Act by participants of such programs, except those programs with respect to which unemployment insurance coverage is required by the Comprehensive Employment and Training Act or regulations issued pursuant thereto;
- (15) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer; except, that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;
- (16) Services performed by a licensed real estate salesperson or licensed real estate broker if [at least eighty percent] **substantially all** of the remuneration, whether or not paid in cash, for the services performed, rather than to the number of hours worked, is directly related to sales **or other output, including the performance of services**, performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for federal tax purposes;
- (17) Services performed as a direct seller who is engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business, or services performed as a direct seller who is engaged in the trade or business of selling, or soliciting the sale of, consumer products in the home or otherwise than in, or affiliated with, a permanent, fixed retail establishment, if eighty percent or more of the remuneration, whether or not paid in cash, for the services performed rather than the number of hours worked is directly related to sales performed pursuant to a written contract between such direct seller and the person for whom the services are performed, and such contract provides that
-

the individual will not be treated as an employee with respect to such services for federal tax purposes;

(18) Services performed as a volunteer research subject who is paid on a per study basis for scientific, medical or drug-related testing for any organization other than one described in Section 501(c)(3) of the Internal Revenue Code or any governmental entity.

13. The term "employment" shall include domestic service as defined in subdivisions (2) and (13) of subsection 12 of this section performed after December 31, 1977, if the employing unit for which such service is performed paid cash wages of one thousand dollars or more for such services in any calendar quarter after December 31, 1977.

14. The term "employment" shall include or exclude the entire service of an individual for an employing unit during a pay period in which such individual's services are not all excluded under the foregoing provisions, on the following basis: if the services performed during one-half or more of any pay period constitute employment as otherwise defined in this law, all the services performed during such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period do not constitute employment as otherwise defined in this law, then none of the services for such period shall be deemed to be employment. (As used in this subsection, the term "pay period" means a period of not more than thirty-one consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit employing such individual.) This subsection shall not be applicable with respect to service performed in a pay period where any such service is excluded pursuant to subdivision (8) of subsection 12 of this section.

15. The term "employment" shall not include the services of a full-time student who performed such services in the employ of an organized summer camp for less than thirteen calendar weeks in such calendar year.

16. For the purpose of subsection 15 of this section, an individual shall be treated as a full-time student for any period:

(1) During which the individual is enrolled as a full-time student at an educational institution; or

(2) Which is between academic years or terms if:

(a) The individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term; and

(b) There is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in paragraph (a) of this subdivision.

17. For the purpose of subsection 15 of this section, an "organized summer camp" shall mean a summer camp which:

(1) Did not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year; or

(2) Had average gross receipts for any six months in the preceding calendar year which were not more than thirty-three and one-third percent of its average gross receipts for the other six months in the preceding calendar year.

18. The term "employment" shall not mean service performed by a remodeling salesperson acting as an independent contractor; however, if the federal Internal Revenue Service determines that a contractual relationship between a direct provider and an individual acting as an independent contractor pursuant to the provisions of this subsection is in fact an employer-employee relationship for the purposes of federal law, then that relationship shall be considered as an employer-employee relationship for the purposes of this chapter.

306.532. CERTIFICATE OF TITLE TO DESIGNATE YEAR OF MANUFACTURE — Effective January 1, 2011, the certificate of title for a new outboard motor shall designate the year the outboard motor was manufactured as the "Year Manufactured" and shall further

designate the year the dealer received the new outboard motor from the manufacturer as the "Model Year-NEW".

327.031. BOARD ESTABLISHED, MEMBERSHIP, OFFICERS, QUALIFICATIONS OF MEMBERS — HOW APPOINTED — TERMS — VACANCY, HOW FILLED — MAY SUE AND BE SUED — ABOLISHMENT OF COUNCIL — TRANSFER OF POWERS, DUTIES AND FUNDS. — 1. The "Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects" is hereby established and shall consist of [fourteen] **fifteen** members: a chairperson, who may be either an architect, a professional engineer [or] , a professional land surveyor, **or a landscape architect**; three architects, who shall constitute the architectural division of the board; [three] **four** professional engineers, who shall constitute its professional engineering division; three professional land surveyors, who shall constitute its professional land surveying division; three landscape architects, who shall constitute its landscape [architecture] **architectural** division; and a voting public member.

2. After receiving his or her commission and before entering upon the discharge of his or her official duties, each member of the board shall take, subscribe to and file in the office of the secretary of state the official oath required by the constitution.

3. The chairperson shall be the administrative and executive officer of the board, and it shall be his or her duty to supervise and expedite the work of the board and its divisions, and, at his or her election, when a tie exists between the divisions of the board, to break the tie by recording his or her vote for or against the action upon which the divisions are in disagreement. Each member of the architectural division shall have one vote when voting on an action pending before the board; each member of the professional engineering division shall have one vote when voting on an action pending before the board; [the chairperson of the landscape architecture division or the chairperson's designee] **each member of the professional land surveying division shall have one vote when voting on an action pending before the board; and each member of the landscape architectural division** shall have one vote when voting on an action pending before the board; and each member of the professional land surveying division shall have one vote when voting on an action pending before the board]. Every motion or proposed action upon which the divisions of the board are tied shall be deemed lost, and the chairperson shall so declare, unless the chairperson shall elect to break the tie as provided in this section. [Seven] **Eight** voting members of the board [and two members] , **including at least one member** of each division, shall constitute a quorum, respectively, for the transaction of **board** business.

4. Each division of the board shall, at its first meeting in each even-numbered year, elect one of its members as division chairperson for a term of two years. **Two voting members of each division of the board shall constitute a quorum for the transaction of division business.** The chairpersons of the architectural division, professional engineering division [and the] , professional land surveying division, **and landscape architectural division** so elected shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the chairperson of the architectural division shall be the ranking vice chairperson, and when the chairperson of the board is a professional engineer, the chairperson of the professional engineering division shall be the ranking vice chairperson, [and] when the chairperson of the board is a professional land surveyor, the chairperson of the professional land surveying division shall be the ranking vice chairperson, **and when the chairperson of the board is a landscape architect, the chairperson of the landscape architectural division shall be the ranking vice chairperson.** The chairperson of each division shall be the administrative and executive officer of his or her division, and it shall be his or her duty to supervise and expedite the work of the division, and, in case of a tie vote on any matter, the chairperson shall, at his or her election, break the tie by his or her vote. Every motion or question pending before the division upon which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless the chairperson shall elect to break such tie by his or her vote.

5. Any person appointed to the board, except a public member, shall be a currently licensed architect, licensed professional engineer, licensed professional land surveyor or registered or licensed landscape architect in Missouri, as the vacancy on the board may require, who has been a resident of Missouri for at least five years, who has been engaged in active practice as an architect, professional engineer, professional land surveyor or landscape architect, as the case may be, for at least ten consecutive years immediately preceding such person's appointment and who is and has been a citizen of the United States for at least five years immediately preceding such person's appointment. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of engineering shall be regarded as active practice of engineering, for the purposes of this chapter. Active service as a faculty member, after meeting the qualifications required by section 327.314, while holding the rank of assistant professor or higher in an accredited school of engineering and teaching land surveying courses shall be regarded [an] as active practice of land surveying for the purposes of this chapter. **Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of landscape architecture shall be regarded as active practice of landscape architecture, for the purposes of this chapter.** Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of architecture shall be regarded as active practice of architecture for the purposes of this chapter; provided, however, that no faculty member of an accredited school of architecture shall be eligible for appointment to the board unless such person has had at least three years' experience in the active practice of architecture other than in teaching. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

6. The governor shall appoint the chairperson and the other members of the board when a vacancy occurs either by the expiration of a term or otherwise, and each board member shall serve until such member's successor is appointed and has qualified. **Beginning August 28, 2010, the position of chairperson shall [alternate among an architect, a professional engineer and a professional land surveyor] rotate sequentially with an architect, then professional engineer, then professional land surveyor, then landscape architect, and shall be a licensee who has previously served as a member of the board. The appointment of the chairperson shall be for a term of four years which shall be deemed to have begun on the date of his or her appointment and shall end upon the appointment of the chairperson's successor. The chairperson shall not serve more than one term.** All other appointments, except to fill an unexpired term, shall be for terms of four years; but no person shall serve on the board for more than two consecutive four-year terms, and each four-year term shall be deemed to have begun on the date of the expiration of the term of the board member who is being replaced or reappointed, as the case may be. Any appointment to the board which is made when the senate is not in session shall be submitted to the senate for its advice and consent at its next session following the date of the appointment.

7. In the event that a vacancy is to occur on the board because of the expiration of a term, then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs, the president of the American Institute of Architects/Missouri if the vacancy to be filled requires the appointment of an architect, [the president of the Missouri Association of Landscape Architects if the vacancy to be filled requires the appointment of a landscape architect,] the

president of the Missouri Society of Professional Engineers if the vacancy to be filled requires the appointment of an engineer, [and] the president of the Missouri Society of Professional Surveyors if the vacancy to be filled requires the appointment of a land surveyor, **and the president of the Missouri Association of Landscape Architects if the vacancy to be filled requires the appointment of a landscape architect**, shall submit to the director of the division of professional registration a list of five architects or five professional engineers, [five landscape architects] or five professional land surveyors, **or five landscape architects** as the case may require, qualified and willing to fill the vacancy in question, with the recommendation that the governor appoint one of the five persons so listed; and with the list of names so submitted, the president of the appropriate organization shall include in a letter of transmittal a description of the method by which the names were chosen. This subsection shall not apply to public member vacancies.

8. The board may sue and be sued as the Missouri board for architects, professional engineers, professional land surveyors and landscape architects, and its members need not be named as parties. Members of the board shall not be personally liable either jointly or severally for any act or acts committed in the performance of their official duties as board members, nor shall any board member be personally liable for any court costs which accrue in any action by or against the board.

9. Upon appointment by the governor and confirmation by the senate of the landscape [architecture] **architectural** division, the landscape architectural council is hereby abolished and all of its powers, duties and responsibilities are transferred to and imposed upon the Missouri board for architects, professional engineers, professional land surveyors and landscape architects established pursuant to this section. Every act performed by or under the authority of the Missouri board for architects, professional engineers, professional land surveyors and landscape architects shall be deemed to have the same force and effect as if performed by the landscape architectural council pursuant to sections 327.600 to 327.635. All rules and regulations of the landscape architectural council shall continue in effect and shall be deemed to be duly adopted rules and regulations of the Missouri board [of] **for** architects, professional engineers, professional [landscape architects and land surveyors] **land surveyors and landscape architects** until such rules and regulations are revised, amended or repealed by the board as provided by law, such action to be taken by the board on or before January 1, 2002.

10. Upon appointment by the governor and confirmation by the senate of the landscape [architecture] **architectural** division, all moneys deposited in the landscape architectural council fund created in section 327.625 shall be transferred to the state board for architects, professional engineers, professional land surveyors and landscape architects fund created in section 327.081. The landscape architectural council fund shall be abolished upon the transfer of all moneys in it to the state board [of] **for** architects, professional engineers, **professional** land surveyors and landscape architects.

327.041. BOARD, POWERS AND DUTIES — RULES, GENERALLY, THIS CHAPTER, PROCEDURE. — 1. The board shall have the duty and the power to carry out the purposes and to enforce and administer the provisions of this chapter, to require, by summons or subpoena, with [the advice of the attorney general and upon] the vote of two-thirds of the voting board members, the attendance and testimony of witnesses, and the production of drawings, plans, plats, specifications, books, papers or any document representing any matter under hearing or investigation, pertaining to the issuance, probation, suspension or revocation of certificates of registration or certificates of authority provided for in this chapter, or pertaining to the unlawful practice of architecture, professional engineering, professional land surveying or landscape architecture.

2. The board shall, within the scope and purview of the provisions of this chapter, prescribe the duties of its officers and employees and adopt, publish and enforce the rules and regulations of professional conduct which shall establish and maintain appropriate standards of competence

and integrity in the professions of architecture, professional engineering, professional land surveying and landscape architecture, and adopt, publish and enforce procedural rules and regulations as may be considered by the board to be necessary or proper for the conduct of the board's business and the management of its affairs, and for the effective administration and interpretation of the provisions of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

3. Rules promulgated by the board pursuant to sections 327.272 to 327.635 shall be consistent with and shall not supersede the rules promulgated by the department of natural resources pursuant to chapter 60, RSMo.

327.272. PRACTICE AS PROFESSIONAL LAND SURVEYOR DEFINED. — 1. A professional land surveyor shall include any person who practices in Missouri as a professional land surveyor who uses the title of "surveyor" alone or in combination with any other word or words including, but not limited to "registered", "professional" or "land" indicating or implying that the person is, or holds himself or herself out to be a professional land surveyor who by word or words, letters, figures, degrees, titles or other descriptions indicates or implies that the person is a professional land surveyor or is willing or able to practice professional land surveying or who renders or offers to render, or holds himself or herself out as willing or able to render, or perform any service or work, the adequate performance of which involves the special knowledge and application of the principles of **land surveying**, mathematics, the related physical and applied sciences, and the relevant requirements of law, all of which are acquired by education, training, experience and examination, that affect real property rights on, under or above the land and which service or work involves:

(1) The **determination, location, relocation, establishment, reestablishment, layout, or retracing** of land boundaries **and positions of the United States Public Land Survey System;**

(2) Monumentation of land boundaries, land boundary corners and corners of the United States Public Land Survey System;

(3) The subdivision of land into smaller tracts;

(4) **Creating, preparing, or modifying electronic or computerized data relative to the performance of the activities in subdivisions (1) to (3) of this subsection;**

(5) Consultation, investigation, evaluation, planning, design and execution of surveys;

[(5)] (6) The preparation of any drawings showing the shape, location, dimensions or area of tracts of land;

[(6)] (7) Monumentation of geodetic control and the determination of their horizontal and vertical positions;

[(7)] (8) Establishment of state plane coordinates;

[(8)] (9) Topographic surveys and the determination of the horizontal and vertical location of any physical features on, under or above the land;

[(9)] (10) The preparation of plats, maps or other drawings showing elevations and the locations of improvements and the measurement and preparation of drawings showing existing improvements after construction;

[(10)] (11) Layout of proposed improvements;

[(11)] (12) The determination of azimuths by astronomic observations.

2. None of the specific duties listed in subdivisions (4) to [(11)] (12) of subsection 1 of this section are exclusive to professional land surveyors unless they affect real property rights. For

the purposes of this section, the term "real property rights" means a recordable interest in real estate as it affects the location of land boundary lines.

3. Nothing in this section shall be construed to preclude the practice of architecture or professional engineering as provided in sections 327.091 and 327.181.

4. Nothing in this section shall be construed to prohibit the subdivision of land pursuant to section 137.185, RSMo.

327.351. PROFESSIONAL LICENSE RENEWAL — EXPIRED OR SUSPENDED LICENSE, RENEWAL PROCEDURE — PROFESSIONAL DEVELOPMENT REQUIREMENTS FOR RENEWAL, EXCEPTION. — 1. The professional license issued to every professional land surveyor in Missouri, including certificates of authority issued to corporations as provided in section 327.401, shall be renewed on or before the license or certificate renewal date provided that the required fee is paid. The license of any professional land surveyor or the certificate of authority of any such corporation which is not renewed within three months of the renewal date shall be suspended automatically, subject to the right of the holder of such suspended license or certificate to have it reinstated within nine months of the date of suspension, if the reinstatement fee is paid. Any license or certificate of authority suspended and not reinstated within nine months of the suspension date shall expire and be void and the holder of such expired license or certificate shall have no rights or privileges thereunder, but any person or corporation whose license or certificate has expired may, within the discretion of the board and upon payment of the required fee, be reregistered or relicensed under such person's or corporation's original license number.

2. Each application for the renewal of a license or of a certificate of authority shall be on a form furnished to the applicant and shall be accompanied by the required fee; but no renewal fee need be paid by any professional land surveyor over the age of seventy-five.

3. Beginning January 1, 1996, as a condition for renewal of a license issued pursuant to section 327.314, a license holder shall be required to successfully complete twenty units of professional development that meet the standards established by the board regulations within the preceding two calendar years. Any license holder who completes more than twenty units of professional development within the preceding two calendar years may have the excess, not to exceed ten units, applied to the requirement for the next two-year period.

4. The board shall not renew the license of any license holder who has failed to complete the professional development requirements pursuant to subsection 3 of this section, unless such license holder can show good cause why he or she was unable to comply with such requirements. If the board determines that good cause was shown, the board shall permit the license holder to make up all outstanding required units of professional development.

5. A license holder may at any time prior to the termination of his or her license request to be classified as inactive. Inactive licenses may be maintained by payment of an annual fee determined by the board. Holders of inactive licenses shall not be required to complete professional development as required in subsection 3 of this section. Holders of inactive licenses shall not practice as professional land surveyors **within this state, but may continue to use the title "professional land surveyor" or the initials "PLS" after such person's name.** If the board determines that good cause was shown, the board shall permit the professional land surveyor to make up all outstanding required units of professional development.

6. A holder of an inactive license may return such license to an active license to practice professional land surveying by paying the required fee, and either:

(1) Completing one-half of the two-year requirement for professional development multiplied by the number of years of lapsed or inactive status. The maximum requirement for professional development units shall be two and one-half times the two-year requirement. The minimum requirement for professional development units shall be no less than the two-year requirement. Such requirement shall be satisfied within the two years prior to the date of reinstatement; or

(2) Taking such examination as the board deems necessary to determine such person's qualifications. Such examination shall cover areas designed to demonstrate the applicant's proficiency in current methods of land surveying practice.

7. Exemption to the required professional development units shall be granted to registrants during periods of serving honorably on full-time active duty in the military service.

8. At the time of application for license renewal, each licensee shall report, on a form provided by the board, the professional development activities undertaken during the preceding renewal period to satisfy the requirements pursuant to subsection 3 of this section. The licensee shall maintain a file in which records of activities are kept, including dates, subjects, duration of program, and any other appropriate documentation, for a period of four years after the program date.

327.411. PERSONAL SEAL, HOW USED, EFFECT OF. — 1. Each architect and each professional engineer and each professional land surveyor and each landscape architect shall have a personal seal in a form prescribed by the board, and he or she shall affix the seal to all final documents including, but not limited to, plans, specifications, estimates, plats, reports, surveys, proposals and other documents or instruments prepared by the licensee, or under such licensee's immediate personal supervision. **Such licensee shall either prepare or personally supervise the preparation of all documents sealed by the licensee**, and such licensee shall be held personally responsible for the contents of all such documents sealed by such licensee, **whether prepared or drafted by another licensee or not.**

2. The personal seal of an architect or professional engineer or professional land surveyor or landscape architect shall be the legal equivalent of the licensee's signature whenever and wherever used, and the owner of the seal shall be responsible for the architectural, engineering, surveying, or landscape architectural documents, as the case may be, when the licensee places his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other documents or instruments for, or to be used in connection with, any architectural or engineering project, survey, or landscape architectural project. **Licensees shall undertake to perform architectural, professional engineering, professional land surveying and landscape architectural services only when they are qualified by education, training, and experience in the specific technical areas involved.**

3. **Notwithstanding any provision of this section,** any architect, professional engineer, professional land surveyor, or landscape architect may, but is not required to, attach a statement over his or her signature, authenticated by his or her personal seal, specifying the particular plans, specifications, plats, reports, surveys or other documents or instruments, or portions thereof, intended to be authenticated by the seal, and disclaiming any responsibility for all other plans, specifications, estimates, reports, or other documents or instruments relating to or intended to be used for any part or parts of the architectural or engineering project or survey or landscape architectural project.

4. Nothing in this section, or any rule or regulation of the board shall require any professional to seal preliminary or incomplete documents.

339.010. DEFINITIONS—APPLICABILITY OF CHAPTER. — 1. A "real estate broker" is any person, partnership, **limited partnership, limited liability company**, association, **professional corporation**, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;

(5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;

(6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;

(7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;

(8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;

(9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;

(10) Performs any of the foregoing acts on behalf of the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person, **partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign** who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. A "real estate broker-salesperson" is any person, **partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign**, who has a real estate broker license in good standing, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. A real estate broker-salesperson may not also operate as a real estate broker. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

[3.] 4. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710 to 339.860 means the Missouri real estate commission.

[4.] 5. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this state.

[5.] 6. "Advertising" shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public, and shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, Internet advertising, websites, display or group ads in telephone directories, and billboards.

[6.] 7. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not apply to:

(1) Any person, partnership, **limited partnership, limited liability company**, association, **professional corporation**, or corporation who as owner, lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof;

(2) Any licensed attorney-at-law;

(3) An auctioneer employed by the owner of the property;

(4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or

deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(5) Any person employed or retained to manage real property by, for, or on behalf of the agent or the owner of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

- (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;
- (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;
- (c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;
- (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;
- (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper, magazine, periodical, Internet site, Internet communications, or any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission whereby the advertising of real estate is incidental to its operation;

(10) Any developer selling Missouri land owned by the developer;

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

(a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;

(b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or

(12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, Internet site, or other medium.

339.020. BROKERS AND SALESPERSONS, UNLAWFUL TO ACT WITHOUT LICENSE. — It shall be unlawful for any person, partnership, **limited partnership, limited liability company,** association, **professional corporation,** or corporation, foreign or domestic, to act as a real estate broker, **real estate broker-salesperson,** or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

339.030. BUSINESS ENTITIES MAY BE LICENSED, WHEN, FEE. — A corporation, partnership, **limited partnership, limited liability company, professional corporation,** or association shall be granted a **broker's, broker-salesperson's, or salesperson's** license when the required fee is paid and:

(1) For a real estate broker individual licenses have been issued to every member, general partner, associate, manager, member, or officer of such partnership, **limited partnership, limited liability company,** association, **professional corporation,** or corporation who actively participates in its brokerage business and to every person, **partnership, limited partnership, limited liability company, professional corporation, or corporation** who acts as a salesperson for such partnership, **limited partnership, limited liability company,** association, **professional corporation,** or corporation [and when the required fee is paid.], or

(2) For a real estate broker-salesperson when an individual broker-salesperson license has been issued to every general partner, associate, manager, member, or officer of such partnership, **limited partnership, limited liability company,** association, **professional corporation, or corporation** who acts as a broker-salesperson, and individual salesperson licenses have been issued to all general partners, associates, managers, members, or officers of such partnership, **limited partnership, limited liability company,** association, **professional corporation, or corporation** who act as a salesperson, or

(3) For a real estate salesperson when individual salesperson licenses have been issued to all general partners, associates, managers, members, or officers of such partnership, **limited partnership, limited liability company,** association, **professional corporation, or corporation** who act as a salesperson.

339.040. LICENSES GRANTED TO WHOM — EXAMINATION — QUALIFICATIONS — FEE — TEMPORARY BROKER'S LICENSE, WHEN — RENEWAL, REQUIREMENTS. — 1. Licenses shall be granted only to persons who present, and corporations, associations, [or] partnerships, **limited partnerships, limited liability companies, and professional corporations** whose officers, managers, associates, [or] general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

- (1) Are persons of good moral character; and
- (2) Bear a good reputation for honesty, integrity, and fair dealing; and
- (3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180 and sections 339.710 to 339.860, the commission shall hold oral or written examinations at such times and places as the commission may determine.

3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.

4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.

5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least two years immediately preceding the date of application, and shall include

a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive all or part of the requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission. **Each application for a broker-salesperson license shall include evidence of the current broker license held by the applicant.**

6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

7. The commission may issue a temporary work permit pending final review and printing of the license to an applicant who appears to have satisfied the requirements for licenses. The commission may, at its discretion, withdraw the work permit at any time.

8. Every active broker, **broker-salesperson**, salesperson, officer, **manager**, **general partner**, **member** or associate shall provide upon request to the commission evidence that during the two years preceding he or she has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation, provide for individual waiver of this requirement.

9. Each entity that provides continuing education required under the provisions of subsection 8 of this section may make available instruction courses that the entity conducts through means of distance delivery. The commission shall by rule set standards for such courses. The commission may by regulation require the individual completing such distance-delivered course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the course and approved by the commission.

10. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed **general** partners, officers, **managers**, **members** or associates of a real estate partnership, **limited partnership**, **limited liability company**, **professional corporation**, corporation, or association whereby the affairs of the broker, partnership, [or] **limited partnership**, **limited liability company**, **professional corporation**, corporation, or **association** cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs of the broker, partnership [or] , **limited partnership**, **limited liability company**, **professional corporation**, corporation, or **association** under the supervision of the commission.

339.080. DENIAL OF APPLICATION OR LICENSE, WHEN, NOTICE — HEARING. — 1. The commission may refuse to examine or issue a license to any person known by it to be guilty of any of the acts or practices specified in subsection 2 of section 339.100, or to any person previously licensed whose license has been revoked, or may refuse to issue a license to any association [or] , partnership, **corporation**, **professional corporation**, **limited partnership**, or **limited liability company** of which such person is a [member] **manager**, **officer** or **general partner**, or in which as a **member**, **partner** or **associate** such person has or exercises a **controlling interest either directly or indirectly**, or to any corporation of which such person

is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.

2. Any person denied a license or the right to be examined shall be so notified by the commission in writing stating the reasons for denial or refusal to examine and informing the person so denied of his right to file a complaint with the administrative hearing commission in accordance with the applicable provisions of sections 621.015 to 621.198, RSMo, and the rules promulgated thereunder. All notices hereunder shall be sent by registered or certified mail to the last known address of the applicant.

339.110. REFUSAL OF LICENSES, WHEN. — The commission may refuse to issue a license to any person who is known by it to have been found guilty of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, or other like offense, or to any association [or] , partnership, **corporation, professional corporation, limited partnership, or limited liability company** of which [the person is a member] **such person is a manager, officer or general partner, or in which as a member, partner or associate such person has or exercises a controlling interest either directly or indirectly**, or to any corporation of which [the] **such person is an officer or in which as a stockholder [the] such person has or exercises a controlling interest either directly or indirectly.**

339.160. REAL ESTATE BROKERS AND SALESPERSONS MAY NOT BRING LEGAL ACTION FOR COMPENSATION UNLESS LICENSED. — No person, partnership, **limited partnership, limited liability company, professional corporations, corporation[,] or association** engaged within this state in the business or acting in the capacity of a real estate broker, **real estate broker-salesperson** or real estate salesperson shall bring or maintain an action in any court in this state for the recovery of compensation for services rendered in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate without alleging and proving that such person, partnership, **limited partnership, limited liability company, professional corporation, corporation[,] or association, or its member, manager, officer, general partner or associate, as applicable,** was a licensed real estate broker, **broker-salesperson** or salesperson at the time when the alleged cause of action arose.

339.170. PENALTY FOR VIOLATION. — Any person or corporation, **professional corporation, partnership, limited partnership, limited liability company or association** knowingly violating any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall be guilty of a class B misdemeanor. Any officer or agent of a corporation, or **any member, manager, officer, associate, general partner** or agent of a partnership [or] , association, **corporation, professional corporation, limited partnership, or limited liability company who actively participate in such entity's brokerage business**, who shall knowingly and personally participate in or be an accessory to any violation of sections 339.010 to 339.180 and sections 339.710 to 339.860, shall be guilty of a class B misdemeanor. This section shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state. The commission may cause complaint to be filed for violation of section 339.020 in any court of competent jurisdiction, and perform such other acts as may be necessary to enforce the provisions hereof.

339.503. DEFINITIONS. — As used in sections 339.500 to 339.549, the following words and phrases mean, unless the context clearly indicates otherwise:

(1) "Appraisal" or "real estate appraisal", an objective analysis, evaluation, opinion, or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis;

(2) "Appraisal assignment", an engagement for which a person is employed or retained to act as a disinterested third party in rendering an objective appraisal;

(3) "Appraisal foundation", the organization of the same name that was incorporated as an Illinois not-for-profit corporation on November 20, 1987, whose operative boards are the appraisal standards board and the appraiser qualifications board;

(4) "Appraisal report", any communication, written or oral, of an appraisal. The purpose of an appraisal is immaterial, therefore valuation reports, real estate counseling reports, real estate tax counseling reports, real estate offering memoranda, mortgage banking offers, highest and best use studies, market demand and economic feasibility studies and all other reports communicating an appraisal analysis, opinion or conclusion are appraisal reports, regardless of title;

(5) "Appraisal standards board (ASB)", the independent board of the appraisal foundation which promulgates the generally accepted standards of the appraisal profession and the uniform standards of professional appraisal practices;

(6) "Appraiser qualifications board (AQB)", the independent board of the appraisal foundation which establishes minimum experience, education and examination criteria for state licensing of appraisers;

(7) "Boat dock", a structure for loading and unloading boats and connecting real property to water, public or private. A boat dock is real property and has riparian rights, provided:

(a) The lender includes the boat dock as a fixture both in the lender's deed of trust and a uniform commercial code fixture filing under section 400.9-502, RSMo;

(b) The boat dock is attached to the real property by steel cable, bar, or chain that is permanently imbedded in concrete or rock, and otherwise securely attached to the dock; and

(c) The owner of the dock has riparian rights by means of real estate rights bordering the body of water, including such rights by license, grant, or other means allowing access to the body of water, which access may be seasonal because the water may be reduced for electric power production or flood control;

(8) **"Boat slip" or "watercraft slip", a defined area of water, including the riparian rights to use such area, whether by grant, lease, or license, in accordance with all applicable laws and regulations, which is a part of a boat dock serving a common interest community, including by way of example and not of limitation condominiums and villas; and the exclusive right to such use being allocated as a limited common element or being assigned to an owner of real estate in the common interest community in which the boat dock is located, whether by grant, lease, or otherwise. The rights of the real estate owner in such slip are included as collateral in any deed of trust and uniform commercial code filings of a lender, if any, taking a security interest in the owner's real estate;**

(9) "Broker price opinion", an opinion of value, prepared by a real estate licensee for a fee, that includes, but is not limited to, analysis of competing properties, comparable sold properties, recommended repairs and costs or suggested marketing techniques. A broker price opinion is not an appraisal and shall specifically state it is not an appraisal;

~~[(9)]~~ (10) "Certificate", the document issued by the Missouri real estate appraisers commission evidencing that the person named therein has satisfied the requirements for certification as a state-certified real estate appraiser and bearing a certificate number assigned by the commission;

~~[(10)]~~ (11) "Certificate holder", a person certified by the commission pursuant to the provisions of sections 339.500 to 339.549;

~~[(11)]~~ (12) "Certified appraisal report", an appraisal prepared or signed by a state-certified real estate appraiser. A certified appraisal report represents to the public that it meets the appraisal standards defined in sections 339.500 to 339.549;

~~[(12)]~~ (13) "Commission", the Missouri real estate appraisers commission, created in section 339.507;

~~[(13)]~~ (14) "Comparative market analysis", the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property

undertaken by a licensed real estate broker or agent, for his or her principal. A comparative market analysis is not an appraisal and shall specifically state it is not an appraisal;

[(14)] (15) "Disinterested third party" shall not exclude any state-certified real estate appraiser or state-licensed real estate appraiser employed or retained by any bank, savings association, credit union, mortgage banker or other lender to perform appraisal assignments, provided that the appraisal assignments are rendered with respect to loans to be extended by the bank, savings association, credit union, mortgage banker or other lender, and provided further that the state-certified real estate appraiser or state-licensed real estate appraiser is not requested or required to report a predetermined analysis or opinion of value;

[(15)] (16) "License" or "licensure", a license or licensure issued pursuant to the provisions of sections 339.500 to 339.549 evidencing that the person named therein has satisfied the requirements for licensure as a state-licensed real estate appraiser and bearing a license number assigned by the commission;

[(16)] (17) "Real estate", an identified parcel or tract of land, including improvements, if any;

[(17)] (18) "Real estate appraiser" or "appraiser", a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein;

[(18)] (19) "Real estate appraising", the practice of developing and communicating real estate appraisals;

[(19)] (20) "Real property", the interests, benefits and rights inherent in the ownership of real estate;

[(20)] (21) "Residential real estate", any parcel of real estate, improved or unimproved, that is primarily residential in nature and that includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit is a condominium, town house or cooperative complex, or a planned unit development is considered to be residential real estate. Subdivisions are not considered residential real estate. Individual parcels of property located within a residential subdivision shall be considered residential property;

[(21)] (22) "Specialized appraisal services", appraisal services which do not fall within the definition of appraisal assignment. The term "specialized services" may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser is acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not specialized services;

[(22)] (23) "State-certified general real estate appraiser", a person who holds a current, valid certificate as a state-certified general real estate appraiser issued pursuant to the provisions of sections 339.500 to 339.549;

[(23)] (24) "State-certified residential real estate appraiser", a person who holds a current, valid certificate as a state-certified residential real estate appraiser issued pursuant to the provisions of sections 339.500 to 339.549;

[(24)] (25) "State-licensed real estate appraiser", a person who holds a current, valid license as a state-licensed real estate appraiser pursuant to the provisions of sections 339.500 to 339.549;

[(25)] (26) "Subdivision", a tract of land that has been divided into blocks or plots with streets, roadways, open areas and other facilities appropriate to its development as residential, commercial or industrial sites;

[(26)] (27) "Temporary appraiser licensure or certification", the issuance of a temporary license or certificate by the commission to a person licensed or certified in another state who enters this state for the purpose of completing a particular appraisal assignment.

339.710. DEFINITIONS. — For purposes of sections 339.010 to 339.180, and sections 339.710 to 339.860, the following terms mean:

(1) "Adverse material fact", a fact related to the property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

- (a) Environmental hazards affecting the property;
- (b) Physical condition of the property which adversely affects the value of the property;
- (c) Material defects in the property;
- (d) Material defects in the title to the property;
- (e) Material limitation of the party's ability to perform under the terms of the contract;

(2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;

(3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

(4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;

(5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:

(a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or

(b) Alter the designated broker's underlying contractual agreement with the client;

(6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860;

(7) "Commercial real estate", any real estate other than real estate containing one to four residential units or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;

(8) "Commission", the Missouri real estate commission;

(9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860 or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;

(10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with the licensee;

(11) "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;

(12) "Designated broker", any individual licensed as a broker who is operating pursuant to the definition of real estate broker as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, **limited partnership**, association, limited liability corporation, **professional corporation**, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, **limited partnership**, association, limited liability [corporation,] **company**, **professional corporation** or corporation. Every real estate **broker** partnership, **limited partnership**, association, [or] limited liability [corporation] **company**, **professional corporation** or corporation shall appoint a designated broker;

(13) "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;

(14) "Dual agency", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;

(15) "Dual agent", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;

(16) "Exclusive brokerage agreement", means a written brokerage agreement which provides that the broker has the sole right, through the broker or through one or more affiliated licensees, to act as the exclusive limited agent, representative, or transaction broker of the client or customer that meets the requirements of section 339.780;

(17) "Licensee", a real estate broker or salesperson as defined in section 339.010;

(18) "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;

(19) "Ministerial acts", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:

(a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;

(b) Responding to telephone inquiries from a person concerning the price or location of property;

(c) Attending an open house and responding to questions about the property from a consumer;

(d) Setting an appointment to view property;

(e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;

(f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;

(g) Describing a property or the property's condition in response to a person's inquiry;

(h) Showing a customer through a property being sold by an owner on his or her own behalf; or

(i) Referral to another broker or service provider;

(20) "Residential real estate", all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term "cooperative housing association" means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

(21) "Single agent", a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:

(a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate transaction;

(b) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;

(c) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and

(d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;

(22) "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

(23) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860, who:

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

(b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or

(c) Assists another party to the same transaction either solely or through licensee affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

339.845. NOTICE OF DELINQUENT TAXES TO BE SENT BY COMMISSION. — If the commission receives a notice of delinquent taxes from the director of revenue under the provisions of section 324.010 regarding a real estate broker or salesperson, the commission shall immediately send a copy of such notice to the real estate broker with which the real estate broker or salesperson is associated.

339.1100. CITATION OF LAW. — Sections 339.1100 to 339.1240 shall be known and may be cited as the "Missouri Appraisal Management Company Registration and Regulation Act".

339.1105. DEFINITIONS — As used in sections 339.1100 to 339.1240, unless the context otherwise requires, the following terms shall mean:

(1) "Appraisal" or "real estate appraisal", an objective analysis, evaluation, opinion, or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis;

(2) "Appraisal firm", a person, limited liability company, partnership, association, or corporation whose principal is an appraiser licensed under sections 339.500 to 339.549 which for compensation prepares and communicates appraisals, reviews appraisals prepared by others, provides appraisal consultation services, and supervises, trains, and reviews work produced or certified by persons licensed under sections 339.500 to 339.549 who produces appraisals;

(3) "Appraisal management company", an individual or business entity that utilizes an appraisal panel and performs, directly or indirectly, appraisal management services;

(4) "Appraisal management services", to directly or indirectly perform any of the following functions on behalf of a lender, financial institution, client, or any other person:

(a) Administer an appraiser panel;

(b) Recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;

- (c) Receive an order for an appraisal from one person and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;
- (d) Track and determine the status of orders for appraisals;
- (e) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; and
- (f) Provide a completed appraisal performed by an appraiser to one or more persons who have ordered an appraisal;
- (5) "Appraisal review", the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that an examination of an appraisal for grammatical, typographical, or other similar errors shall not be an appraisal review;
- (6) "Appraiser", an individual who holds a license as a state licensed real estate appraiser or certification as a state certified real estate appraiser under this chapter;
- (7) "Appraiser panel", a network of licensed or certified appraisers that have:
 - (a) Responded to an invitation, request, or solicitation from an appraisal management company, in any form, to perform appraisals for persons that have ordered appraisals through the appraisal management company or to perform appraisals for the appraisal management company directly; and
 - (b) Been selected and approved by an appraisal management company to perform appraisals for any client of the appraisal management company that has ordered an appraisal through the appraisal management company or to perform appraisals for the appraisal management company directly;
- (8) "Commission", the Missouri real estate appraisers commission created in section 339.507;
- (9) "Controlling person":
 - (a) An owner, officer or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;
 - (b) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or
 - (c) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company;
- (10) "State certified real estate appraiser", a person who develops and communicates real estate appraisals and who holds a current valid certificate issued to the person for either general or residential real estate under this chapter;
- (11) "State licensed real estate appraiser", a person who holds a current valid real estate appraiser license issued under this chapter.

339.1110. REGISTRATION REQUIREMENTS. — 1. No person shall directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a registration issued by the commission under sections 339.1100 to 339.1240.

2. The registration required by subsection 1 of this section shall, at a minimum, include the following:

- (1) Name of the entity seeking registration;
- (2) Business address of the entity seeking registration, which shall be located and maintained within this state;
- (3) Phone contact information of the entity seeking registration;

(4) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;

(5) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent or more of the appraisal management company;

(6) The name, address, and contact information for a designated controlling person to be the primary communication source for the commission;

(7) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company for appraisal services to be performed in Missouri holds a license in good standing in Missouri, if a license or certification is required to perform appraisals under section 339.1180;

(8) A certification that the entity has a system in place to review the work of all appraisers who are performing real estate appraisal services for the appraisal management company on a periodic basis to validate that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) under section 339.1185;

(9) A certification that the entity maintains a detailed record of each service request that it receives for appraisal services within the state of Missouri and the appraiser who performs the real estate appraisal services for the appraisal management company under section 339.1190;

(10) An irrevocable Uniform Consent to Service of Process under section 339.1130; and

(11) Any other reasonable information required by the commission to complete the registration process.

339.1115. INAPPLICABILITY OF ACT. — Sections 339.1100 to 339.1240 shall not apply to:

(1) The performance of services as an appraisal firm;

(2) A national or state bank, federal or state savings institution, or credit union that is subject to direct regulation or supervision by an agency of the United States government, or by the department of insurance, financial institutions or professional registration, that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser who is an independent contractor to the institution. An entity exempt as provided in this subdivision shall file a notice with the commission containing the information required in section 339.1110;

(3) An appraiser that enters into an agreement, whether written or otherwise, with an appraiser for the performance of an appraisal, and upon the completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal;

(4) A state agency or local municipality that orders appraisals for ad valorem tax purposes or any other business on behalf of the state of Missouri;

(5) Any person licensed to practice law in this state, a court-appointed personal representative, or a trustee who orders an appraisal in connection with a bona fide client relationship when such person directly contracts with an independent appraiser.

339.1120. APPLICATION REQUIREMENTS. — An applicant for a registration as an appraisal management company shall submit to the commission an application containing the information required in subsection 2 of section 339.1110 on a form prescribed by the commission.

339.1125. TERM OF REGISTRATION. — Registration shall be valid for two years from its issuance.

339.1130. IRREVOCABLE UNIFORM CONSENT TO SERVICE OF PROCESS REQUIRED. — Each entity applying for a registration as an appraisal management company in Missouri shall complete an irrevocable Uniform Consent to Service of Process, as prescribed by the commission.

339.1135. FEES, AMOUNT — SURETY BOND REQUIRED — RULEMAKING AUTHORITY. — 1. The commission shall establish by rule the fee to be paid by each appraisal management company seeking registration under sections 339.1100 to 339.1240, such that the sum of the fees paid by all appraisal management companies seeking registration under this section shall be sufficient for the administration of sections 339.1100 to 339.1240. The commission shall charge and collect fees to be utilized to fund activities that may be necessary to carry out the provisions of this chapter.

2. Each applicant for registration shall post with the commission and maintain on renewal a surety bond in the amount of twenty thousand dollars. The details of the bond shall be prescribed by rule of the commission, however, the bond shall not be used to assist appraisers in collection efforts of credit extended by the appraiser.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 339.1100 to 339.1240 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. Sections 339.1100 to 339.1240 and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

339.1140. OWNERSHIP LIMITATIONS. — 1. An appraisal management company applying for a registration in Missouri shall not be more than ten percent owned by:

(1) A person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state;

(2) An entity that is more than ten percent owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state.

2. Each person who owns more than ten percent of an appraisal management company in this state shall:

(1) Be of good moral character, as determined by the commission; and

(2) Submit to a background investigation, as determined by the commission.

3. Each appraisal management company applying for registration shall certify to the commission that it has reviewed each entity that owns more than ten percent of the appraisal management company and that no entity that owns more than ten percent of the appraisal management company is more than ten percent owned by any person who has had a license or certificate to act as an appraiser refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation.

4. Each appraisal management company shall notify the commission within thirty days of a change in its controlling principal, agent of record, or ownership composition.

339.1145. DESIGNATION OF COMPLIANCE MANAGER AS CONTACT. — 1. Each appraisal management company applying to the commission for a registration in this state shall designate one compliance manager who will be the main contact for all communication between the commission and the appraisal management company.

2. The designated controlling person under subsection 1 of this section shall:

- (1) Have never had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state;
- (2) Be of good moral character, as determined by the commission; and
- (3) Submit to a background investigation, as determined by the commission.

339.1150. PROHIBITED ACTS. — 1. An appraisal management company that applies to the commission for registration to do business in this state as an appraisal management company under subdivision (1) of section 339.1115 shall not:

- (1) Employ any person directly involved in appraisal management services who has had a license or certificate to act as an appraiser in Missouri or in any other state refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation;
- (2) Knowingly enter into any independent contractor arrangement, whether in verbal, written, or other form, with any person who has had a license or certificate to act as an appraiser in Missouri or in any other state refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation;
- (3) Knowingly enter into any contract, agreement, or other business relationship directly involved with the performance of real estate appraisal or appraisal management services, whether in verbal, written, or any other form, with any entity that employs, has entered into an independent contract arrangement, or has entered into any contract, agreement, or other business relationship, whether in verbal, written, or any other form, with any person who has ever had a license or certificate to act as an appraiser in Missouri or in any other state, refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation.

339.1155. VERIFICATION SYSTEM REQUIRED FOR CREDENTIALING. — Prior to placing an assignment for real estate appraisal services within the state of Missouri with an appraiser on the appraiser panel of an appraisal management company, the appraisal management company shall have a system in place to verify that the appraiser receiving the assignment holds a credential in good standing in the state of Missouri. Letters of engagement shall include instructions to the appraiser to decline the assignment in the event the appraiser is not geographically competent or the assignment falls outside the appraiser's scope of practice restrictions.

339.1160. LICENSURE REQUIRED, WHEN. — Any employee or independent contractor of the appraisal management company who performs an appraisal review shall be an individual who holds a license as a state licensed real estate appraiser or certification as a state certified real estate appraiser under this chapter. Letters of engagement shall include instructions to the appraiser to decline the appraisal review assignment in the event the appraiser is not geographically competent or the assignment falls outside the appraiser's scope of practice restrictions.

339.1170. LICENSURE VERIFICATION SYSTEM, BIENNIAL CERTIFICATION REQUIRED. — Each appraisal management company seeking to be registered shall certify to the commission on a biennial basis on a form prescribed by the commission that the appraisal management company has a system and process in place to verify that an individual being added to the appraiser panel of the appraisal management company holds a license in good standing in this state under this chapter.

339.1175. LICENSURE SANCTION VERIFICATION SYSTEM, BIENNIAL CERTIFICATION REQUIRED. — Each appraisal management company seeking to be registered shall certify to the commission on a biennial basis on a form prescribed by the commission that the

appraisal management company has a system in place to verify that an individual to whom the appraisal management company is making an assignment for the completion of an appraisal has not had a license or certification as an appraiser refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation on a regular basis.

339.1180. APPRAISAL REVIEWS, BIENNIAL CERTIFICATION REQUIRED. — Each registered appraisal management company shall certify to the commission on a biennial basis that it has a system in place to perform an appraisal review on a periodic basis of the work of all appraisers who are performing appraisals for the appraisal management company to validate that the appraisals are being conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP). An appraisal management company shall report to the commission the results of any appraisal reviews in which an appraisal is found to be substantially noncompliant with USPAP or state or federal laws pertaining to appraisals.

339.1185. RECORD-KEEPING, BIENNIAL CERTIFICATION REQUIRED. — 1. Each appraisal management company seeking to be registered shall certify to the commission biennially that it maintains a detailed record of each service request for appraisal services within the state of Missouri and that it receives of each appraiser who performs an appraisal for the appraisal management company in the state of Missouri.

2. All appraisal management company records shall be retained for five years.

339.1190. FEE RECORDING, APPRAISER NOT TO BE PROHIBITED, WHEN — FEE NOTICE TO CLIENTS. — 1. An appraisal management company shall not prohibit its appraiser who is part of an appraiser panel from recording the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal within the appraisal report that is submitted by the appraiser to the appraisal management company.

2. An appraisal management company shall separately state to the client the fees paid to an appraiser for appraisal services and the fees charged by the appraisal management company for services associated with the management of the appraisal process, including procurement of the appraiser's services.

339.1200. PROHIBITED ACTS RELATING TO INFLUENCE. — 1. No employee, director, officer, or agent of an appraisal management company shall influence or attempt to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or in any other manner, including but not limited to:

(1) Withholding or threatening to withhold timely payment for an appraisal, except in cases of substandard performance or noncompliance with conditions of engagement;

(2) Withholding or threatening to withhold future business, or demoting, terminating, or threatening to demote or terminate an appraiser;

(3) Expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;

(4) Conditioning the request for an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(5) Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;

(6) Providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;

(7) Providing to an appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits;

(8) Allowing the removal of an appraiser from an appraiser panel without prior written notice to such appraiser;

(9) Any other act or practice that knowingly impairs or attempts to impair an appraiser's independence, objectivity, or impartiality;

(10) Requiring an appraiser to collect an appraisal fee on behalf of the appraisal management company from the borrower, homeowner, or other third party; or

(11) Requiring an appraiser to indemnify an appraisal management company or hold an appraisal management company harmless for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company, and not the services performed by the appraiser.

2. Nothing in subsection 1 of this section shall prohibit the appraisal management company from requesting that an appraiser:

(1) Provide additional information about the basis for a valuation; or

(2) Correct objective factual errors in an appraisal report; or

(3) Provide additional information with the appraisal regarding additional sales provided through an established dispute process.

339.1205. PROHIBITED ACTS, APPRAISAL MANAGEMENT COMPANY. — An appraisal management company shall not:

(1) Require an appraiser to modify any aspect of an appraisal report unless the modification complies with section 339.1200;

(2) Require an appraiser to prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the assignment or for the specific geographic area, and has notified the appraisal management company and declined the assignment;

(3) Require an appraiser to prepare an appraisal under a time frame that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations, and has notified the appraisal management company and declined the assignment;

(4) Prohibit or inhibit legal or other allowable communication between the appraiser and:

(a) The lender;

(b) A real estate licensee; or

(c) Any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant;

(5) Knowingly require the appraiser to do anything that does not comply with:

(a) Uniformed Standards of Professional Appraisal Practice (USPAP);

(b) The Missouri certified and licensed real estate appraisers act established under this chapter; or

(c) Any assignment conditions and certifications required by the client;

(6) Make any portion of the appraiser's fee or the appraisal management company's fee contingent on a predetermined or favorable outcome, including but not limited to:

(a) A loan closing; or

(b) Specific dollar amount being achieved by the appraiser in the appraisal report.

339.1210. PAYMENT TO APPRAISER, REQUIREMENTS. — Each appraisal management company shall, except in cases of breach of contract or substandard performance of services, make payment to an appraiser for the completion of an appraisal or valuation assignment within thirty days, unless a mutually agreed upon alternate payment schedule

exists, from when the appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

339.1215. ALTERATION OF APPRAISAL REPORT PROHIBITED — APPRAISER'S DIGITAL SIGNATURE OR SEAL NOT TO BE REQUIRED. — 1. An appraisal management company shall not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser by:

- (1) Permanently removing the appraiser's signature or seal; or
- (2) Adding information to, or removing information from, the appraisal report with an intent to change the valuation conclusion.

2. No registered appraisal management company shall require an appraiser to provide the appraisal management company with the appraiser's digital signature or seal.

339.1220. REGISTRATION NUMBERS — LIST TO BE PUBLISHED — DISCLOSURE OF NUMBERS, WHEN. — 1. The commission shall issue a unique registration number to each appraisal management company.

2. The commission shall publish a list of the appraisal management companies that have registered under sections 339.1100 to 339.1240 and have been issued a registration number.

3. An appraisal management company shall be required to disclose the registration number on each engagement letter utilized in assigning an appraisal request for real estate appraisal assignments within the state of Missouri.

339.1230. REMOVAL OF APPRAISER PROHIBITED, WHEN — COMPLAINT PROCEDURE. — 1. Except within the first thirty days after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company shall not remove an appraiser from its appraiser panel or otherwise refuse to assign requests for real estate appraisal services to an appraiser without:

- (1) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company;
- (2) If the appraiser is being removed from the panel for illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice (USPAP), or a violation of state licensing standards, describing the nature of the alleged conduct or violation; and
- (3) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

2. An appraiser who is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice (USPAP), or violation of state licensing standards may file a complaint with the commission for a review of the decision of the appraisal management company; except that, in no case shall the commission make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company which is unrelated to the actions specified in subsection 1 of this section.

3. If after notice and an opportunity for hearing and review, the commission determines that an appraiser did not commit a violation of law, a violation of the Uniform Standards of Professional Appraisal Practice (USPAP), or a violation of state licensing standards, the commission shall order that such appraiser be added to the appraiser panel of the appraisal management company.

4. If the commission has found that the appraisal management company acted improperly in removing the appraiser from the appraiser panel, an appraisal management company shall not refuse to make assignments for real estate appraisal

services to an appraiser, or reduce the number of assignments, or otherwise penalize the appraiser.

339.1235. SANCTIONING OF REGISTRATION, IMPOSITION OF CIVIL PENALTIES, WHEN.

— 1. The commission may censure an appraisal management company, conditionally or unconditionally suspend or revoke any registration issued under sections 339.1100 to 339.1240, or impose civil penalties not to exceed one thousand dollars for each offense. Each day of a continued violation constitutes a separate offense, with a maximum penalty of ten thousand dollars. In determining the amount of penalty to be imposed, the commission may consider if an appraisal management company is:

- (1) Knowingly committing any act in violation of sections 339.1100 to 339.1240;
- (2) Violating any rule adopted by the commission; or
- (3) Procuring a license by fraud, misrepresentation, or deceit.

339.1240. VIOLATIONS, ADJUDICATORY PROCEEDINGS. — The conduct of adjudicatory proceedings for violations of this section is vested in the commission, provided:

(1) Before censuring any registrant, or suspending or revoking any registration, the commission shall notify the registrant in writing of any charges made at least twenty days before the hearing and shall afford the registrant an opportunity to be heard in person or by counsel; and

(2) Written notice shall be satisfied by personal service on the controlling person of the registrant, or the registrant's agent for service of process in this state, or by sending the notice by certified mail, return receipt requested to the controlling person of the registrant to the registrant's address on file with the commission.

429.016. RESIDENTIAL REAL PROPERTY — RECORDING REQUIRED, PROCEDURE — FAILURE TO RECORD, EFFECT OF — FORM OF NOTICE — SEPARATE NOTICE REQUIRED, WHEN — RELEASE OF LIEN, PROCEDURE — WAIVER, WHEN. — 1. The provisions of this section shall only apply to mechanic's liens asserted against residential real property, other than mechanic's liens for the repair, remodeling, or addition to owner-occupied residential property of four units or less which are governed by section 429.013 and other applicable sections of this chapter.

2. As used in this section, the term "residential real property" means any parcel of real estate, improved or unimproved, that is intended to be used or is used for the construction of residential structures and related improvements which support the residential use of the land where such residential structures are intended, upon completion, either to be occupied or sold by the current owner. Such residential structures shall include any residential dwelling of four units or less, whether or not a unit is occupied by an owner and shall also include any structures consisting solely of residential condominiums, townhouses or cooperatives regardless of the number of units. The definition of "residential real estate" shall exclude any mixed use or planned unit developments except to the extent that any residential uses of such developments are, or will be, located on separate, identifiable parcels from the non-residential uses and then only as to those residential uses. Residential real property shall also include any streets, sidewalks, utility services, improved common areas, or other facilities which are constructed within the defined residential use structures or located on or within the separate and identifiable parcels identified as for residential use.

3. Any person or entity, hereinafter referred to as claimant, who seeks to retain the right to assert a mechanic's lien against residential real property, hereinafter referred to as property, shall record a notice of rights in the office of the recorder of deeds for the county in which the property is located, not less than five calendar days prior to the intended date of closing stated in a notice of intended sale as contemplated in this section.

4. Notwithstanding subsection 3 of this section, a claimant that is accurately identified in any previously recorded notice of rights recorded as to the property is relieved of its duty to record a notice of rights.

5. If the last day to record the notice of rights falls on a Saturday, Sunday, or legal holiday recognized by the state of Missouri, the notice of rights shall be recorded not later than the next day that the office of the recorder of deeds is open for business.

6. Any claimant that fails to record such notice of rights shall be deemed to waive and forfeit any right to assert a mechanic's lien against such property. Despite any such waiver and forfeiture of mechanic's lien rights, the claimant shall retain all other rights and remedies allowed by law to collect payment for its work, labor, and materials.

7. Notwithstanding any other provision of this section, a notice of rights recorded after the owner's conveyance of the property to a bona fide purchaser for value shall not be effective to preserve the claimant's mechanic's lien rights to the property.

8. The notice of rights shall comply with section 59.310 and be on a form substantially as follows:

NOTICE OF RIGHTS

Date: The date of the document.

Owner: Identify Property owner, as "Grantor" by correct name.

Claimant: Identify Claimant, as "Grantee" by correct name, current address, contact persons, and current telephone number.

Property: The legal description of the property.

Person Contracting with Claimant for Work: Identify person or entity contracting with Claimant by correct name, current address, and current telephone number.

Persons performing work for or supplying materials to Claimant: Claimant may, but is not obligated to, identify any persons or entities which have or will be performing work or supplying materials on behalf of Claimant for the Property. Said persons or entities must be identified by correct legal name, address, and current telephone number.

A recorded notice correctly identifies a person or entity so long as the identifying information in the notice is neither deceptively similar to another person or entity reasonably likely to provide labor, materials, supplies, or equipment for the improvement of property nor so deficient in information as to make it unreasonably difficult to identify such person or entity. The form shall be signed by a person authorized to execute the form on behalf of the claimant, and such signature shall be notarized. The name of the person signing the form shall be printed legibly or typed immediately below the signature.

9. The notice of rights shall be recorded by the claimant in the office of the recorder of deeds of the county in which the property is located.

10. The recorder of deeds shall record such notice of rights in the land records and index notice of rights such that owners shall be deemed grantors and claimants shall be deemed grantees, and the grantor's signature shall not be required for recording.

11. (1) If the record title owner of residential real property, hereinafter the owner, has contracted with a claimant for the performance or provision of work, labor, or materials for the improvement of such property in order to facilitate the owner's sale of such property to a bona fide purchaser for value as contemplated in this section, then the owner or such owner's designated agent, shall record a notice of intended sale in the office of the recorder of deeds for the county in which the property is located. The notice of intended sale shall be recorded not less than forty-five calendar days prior to the earliest calendar date the owner intends to close on the sale of such property to such purchaser. The notice of intended sale shall state the calendar date on which the owner intends to close on the sale of such property to such purchaser. Only one notice of intended sale shall

be recorded, even if the intended date of closing stated therein is postponed to a date later than that stated in the notice of intended sale. The owner's, or its designated agent's, recording of a notice of intended sale as to the subject property, as contemplated herein, is a condition precedent to a claimant's obligation to record a notice of rights as to the subject property in order to retain a claimant's mechanics lien rights as to such property.

(2) The owner, or its designated agent, shall post on the subject property, or at an entrance to the subject property, or at any jobsite office located at or near the subject property, a copy of the owner's notice of intended sale.

(3) The owner, or its designated agent, shall provide any claimant with a copy of the notice of intended sale and a copy of a legal description of the subject property, within five calendar days after the date the owner, or its designated agent, receives a written request for the same from any such claimant. The information contemplated herein shall be transmitted by U.S. mail addressed to the claimant's registered agent or principal place of business or transmitted by other commercially reasonable means. A claimant shall, in turn, provide any person or entity with which it has contracted to perform or provide work, labor, or materials for the improvement of the subject property, with written notice in the same form and manner, and containing the same information, as the written notice issued by the owner, all within ten calendar days after the date the claimant receives a written request for the same from any such person or entity.

(4) If any owner, or its designated agent, fails to comply with the requirements of this section, a claimant shall be entitled to receive, as its sole and exclusive remedy for such failure to comply with the section, the claimant's actual and reasonable costs, excluding attorney fees, to obtain a legal description of the subject property necessary for the claimant to record its notice of rights. The costs described in this section shall be lienable expenses. The owner's, or its designated agent's failure to post or mail or transmit the information contemplated in this section, shall not relieve, and is not a condition precedent to, a claimant's obligation to record its notice of right in order to retain claimant's mechanic lien rights as to such property.

(5) The owner, or its designated agent, shall not be liable to any claimant, or other person, for any error, omission, or inaccuracy in the content of the information provided and disclosed by the owner, or its designated agent, except as otherwise expressly provided in this section. If a claimant receives a copy of the notice of intended sale and a legal description of the subject property from the owner, or its designated agent as contemplated in this section and the claimant relies in good faith upon the legal description and includes such legal description in a notice of rights as required in this section, and the claimant's notice of rights otherwise complies with the requirements of this section, then any such claimant's notice of rights shall be deemed to comply with the requirements of this section, and such claimant's right to assert a mechanic's lien as to the subject residential real property shall be retained even if subsequently it is determined that such legal description is in error or inaccurate as to the subject residential real property.

12. The recording of a notice of rights shall not extend the time for filing a mechanic's lien as provided under section 429.080.

13. A separate notice of rights shall be recorded for each lot or parcel of residential real property upon which the claimant performs its work. Nothing herein shall be construed to prohibit the claimant from providing a notice of rights covering multiple lots in the same subdivision if common ownership of lots exists. If the claimant commences its work prior to the platting or subdivision of a tract of land comprising residential real property, the claimant is only required to record one notice of rights provided that the entire tract of land upon which any such lien is to be asserted is described in such notice of rights.

14. The claimant shall not be required to provide the notice required under section 429.100, but compliance with the requirements of this section shall not relieve the claimant

of its duty to comply with all other applicable sections of this chapter, except as specifically modified herein, in order to preserve, assert, and enforce its mechanic's lien rights.

15. For purposes of any mechanic's liens against residential real property only, a claimant satisfies the just and true account requirement contained in section 429.080 by providing the following information and documentation as part of its mechanic's lien claim filed with the clerk of the circuit court:

- (1) A photocopy of the file-stamped notice of rights and any renewals of notice of rights recorded by or identifying claimant;
- (2) The name and address of the person or entity which claimant contracted with to perform work on the property;
- (3) A copy of any contract or contracts, purchase order or orders, or proposal or proposals, hereinafter collectively referred to as agreements, and any agreed change orders or modifications to such agreement or agreements under which claimant performed its work on the property;
- (4) In the absence of any written agreement or agreements, a general description of the scope of work agreed to be performed by claimant on the property and the basis for payment for such work as agreed to by claimant and the contracting party;
- (5) All invoices submitted by claimant for its work on the property;
- (6) An accurate statement of account which shows all payments or credits against amounts otherwise due to claimant for the work performed on the property and the calculation or basis for the amount claimed by claimant in its mechanic's lien statement; and
- (7) The last date that claimant performed any work or labor upon, or provided any materials or equipment to, the property;
- (8) The claimant shall attach a file-stamped copy of his or her notice of rights to claimant's mechanic's lien statement if and when filed with the circuit clerk under section 429.080.

16. To the extent that any error in the information contained in the claimant's notice of rights prejudices the owner, any lender, disbursing company, title insurance company, or subsequent purchaser of the property, the claimant's rights to assert a mechanic's lien shall be forfeited to the extent of the prejudice caused by such error.

17. A person having an interest in any residential real property against which a mechanic's lien has been filed may release such residential real property from any such mechanic's lien by:

- (1) Depositing in the office of the circuit clerk a sum of money, in cash or certified check, an irrevocable letter of credit, which may be secured, issued by a federally or state chartered bank, savings and loan association or savings bank, referred to hereafter as a bank, authorized to and doing business in the state of Missouri, or a surety bond issued by a surety company authorized to do surety business in the state of Missouri and having a certificate of authority to do business with the United States government in accordance with 31 CFR Section 223.1, in an amount not less than one hundred fifty percent of the amount of the mechanic's lien being released; and
- (2) Recording with the recorder of deeds and filing with the circuit clerk a certificate of deposit signed by the circuit clerk which provides the following information:
 - (a) Amount of money deposited, amount of the letter of credit deposited, or penal sum of the bond deposited, along with the name and address of the bank issuing the letter of credit or surety company issuing the bond, as well as a service address for the bank or surety company;
 - (b) Name of claimant, number assigned to the mechanic's lien being released, and the amount of the mechanic's lien being released;
 - (c) Legal description of the property against which the mechanic's lien was filed;

(d) Name, address, and property interest of the person making the deposit of money, providing the letter of credit or providing the surety bond; and

(e) A certification by the person making the deposit of money, providing the letter of credit, or providing the surety bond that they have mailed a copy of the certificate of deposit to the claimant at the address listed on the mechanic's lien being released, along with a copy of any letter of credit or bond deposited by said person.

18. Any surety bond deposited as substitute collateral shall obligate the surety company, to the extent of the penal sum of the bond, to pay any judgment entered under section 429.210.

19. Any letter of credit deposited as substitute collateral shall obligate the issuing bank, to the extent of the amount of the letter of credit, to pay any judgment entered under section 429.210.

20. Upon release of the residential real property from a mechanic's lien by the deposit of substitute collateral, the claimant's rights are transferred from the residential real property to the substitute collateral.

21. Upon determination of the amount of claimant's claim, if any, against the substitute collateral, the court shall either:

(1) Order the circuit clerk to pay the claimant any sums awarded out of the deposited funds and release any remainder to the person or entity who made the cash deposit;

(2) Order the bank to issue payment under the letter of credit for the awarded amount but not exceeding the amount of the letter of credit;

(3) Render judgment against the surety company on the bond for the amount awarded up to but not exceeding the penal sum of the bond; or

(4) Release the substitute collateral

all as deemed appropriate by the court.

22. The deposit of substitute collateral and release of claimant's mechanic's lien shall not modify any aspect of the priority of claimant's interest, claimant's burden of proving compliance with the mechanic's lien statutes, or claimant's obligations with respect to enforcement of its mechanic's lien claim, including, but not limited to, time for filing suit to enforce and necessary parties to the suit to enforce. It is the intent only that the deposited substitute collateral shall be the ultimate source of any potential recovery by claimant instead of the funds generated by foreclosure of the residential real property.

23. A release of a mechanic's lien under the deposit of substitute collateral shall not relieve any claimant of potential liability for slander of title or otherwise due to the filing of claimant's mechanic's lien.

24. The surety company for any bond or the bank which issued the letter of credit deposited under this section shall be made a party to any mechanic's lien enforcement action with respect to any mechanic's lien released by the deposit of said bond or letter of credit.

25. Any claimant may waive its right to assert a mechanic's lien against residential real property by executing a partial or full waiver of mechanic's lien rights, whether conditioned upon receipt of payment or unconditional, provided that a waiver of mechanic's lien rights shall not be deemed or interpreted to waive or release mechanic's lien rights in exchange for a payment of less than the amount claimed due at that time unless such mechanic's lien waiver is an unconditional, final mechanic's lien waiver in compliance with this section.

26. An unconditional, final lien waiver is a complete and absolute waiver of any mechanic's lien rights against the residential real property described in the mechanic's lien waiver, including any rights which might otherwise arise from remedial or additional labor, services, or materials provided to the residential real property, or which might benefit the residential real property, under either an initial agreement or a supplemental

agreement entered into by the same parties prior to the execution of the unconditional, final mechanic's lien waiver.

27. An unconditional, final mechanic's lien waiver shall only be valid if it is on a form that is substantially as follows:

UNCONDITIONAL FINAL LIEN WAIVER FOR RESIDENTIAL REAL PROPERTY

Claimant (provide legal name and address of Claimant) hereby fully, finally, and unconditionally waives and releases any right to assert or enforce a mechanic's lien claim against the residential real property identified below for all work performed by Claimant prior to the date set forth below and for any work hereafter performed by or on behalf of Claimant under any agreements executed by Claimant prior to said date set forth below:

(Provide legal description of the Property)

Claimant's legal name and the name, title or position, address, and telephone number of the person executing the unconditional final lien waiver on behalf of claimant shall be typed or legibly printed immediately above or below the signature, and the date that the document was signed shall be typed or legibly printed immediately adjacent to the signature.

28. A claimant executing an unconditional, final mechanic's lien waiver for less than full consideration shall be bound by such mechanic's lien waiver as it relates to any rights to assert a mechanic's lien against the property, but such mechanic's lien waiver shall not constitute a waiver or release of any other claim, remedy, or cause of action.

29. An unconditional, final mechanic's lien waiver meeting the requirements of this section is valid and enforceable as to claimant's mechanic's lien rights as to the property identified on the unconditional, final mechanic's lien waiver notwithstanding claimant's failure to receive any promised payment or other consideration.

30. Any claimant who has recorded a notice of rights and who has been paid in full for the work performed on the property shall timely execute an unconditional, final mechanic's lien waiver, shall not unreasonably withhold such a waiver when circumstances require prompt execution, and in no event shall fail to provide a waiver any later than five calendar days after claimant's receipt of a written request to do so by any person or entity. A claimant who fails or refuses timely to execute an unconditional, final lien waiver when such claimant has been paid in full for any labor, materials, services, or equipment supplied or used in the improvement to the property shall be presumed liable for slander of title and for any damages sustained as a result thereof, together with a statutory penalty of five hundred dollars.

31. The provisions of this section shall apply to any residential real property conveyance closing on or after November 1, 2010.

441.645. ACT OF GOD, TENANT NOT LIABLE FOR RENT. — If a residence is destroyed by an act of God, including but not limited to fire or a tornado, or other natural disaster or man-made disaster, so long as the tenant was not the person who caused the disaster, the tenant shall not be liable to the landlord for rent during the remainder of the term of the lease agreement.

452.340. CHILD SUPPORT, HOW ALLOCATED — FACTORS TO BE CONSIDERED — ABATEMENT OR TERMINATION OF SUPPORT, WHEN — SUPPORT AFTER AGE EIGHTEEN, WHEN — PUBLIC POLICY OF STATE — PAYMENTS MAY BE MADE DIRECTLY TO CHILD, WHEN — CHILD SUPPORT GUIDELINES, REBUTTABLE PRESUMPTION, USE OF GUIDELINES, WHEN —

RETROACTIVITY — OBLIGATION TERMINATED, HOW. — 1. In a proceeding for dissolution of marriage, legal separation or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the support of the child, including an award retroactive to the date of filing the petition, without regard to marital misconduct, after considering all relevant factors including:

- (1) The financial needs and resources of the child;
- (2) The financial resources and needs of the parents;
- (3) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of the child, and the child's educational needs;
- (5) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements; and
- (6) The reasonable work-related child care expenses of each parent.

2. The obligation of the parent ordered to make support payments shall abate, in whole or in part, for such periods of time in excess of thirty consecutive days that the other parent has voluntarily relinquished physical custody of a child to the parent ordered to pay child support, notwithstanding any periods of visitation or temporary physical and legal or physical or legal custody pursuant to a judgment of dissolution or legal separation or any modification thereof. In a IV-D case, the family support division may determine the amount of the abatement pursuant to this subsection for any child support order and shall record the amount of abatement in the automated child support system record established pursuant to chapter 454, RSMo. If the case is not a IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the automated child support system record established in chapter 454, RSMo.

3. Unless the circumstances of the child manifestly dictate otherwise and the court specifically so provides, the obligation of a parent to make child support payments shall terminate when the child:

- (1) Dies;
 - (2) Marries;
 - (3) Enters active duty in the military;
 - (4) Becomes self-supporting, provided that the custodial parent has relinquished the child from parental control by express or implied consent;
 - (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply;
- or

(6) Reaches age twenty-one, unless the provisions of the child support order specifically extend the parental support order past the child's twenty-first birthday for reasons provided by subsection 4 of this section.

4. If the child is physically or mentally incapacitated from supporting himself and insolvent and unmarried, the court may extend the parental support obligation past the child's eighteenth birthday.

5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary school program of instruction, the parental support obligation shall continue, if the child continues to attend and progresses toward completion of said program, until the child completes such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an institution of vocational or higher education not later than October first following graduation from a secondary school or completion of a graduation equivalence degree program and so long as the child enrolls for and completes at least twelve hours of credit each semester, not including the summer semester, at an institution of vocational or higher education and achieves grades sufficient to reenroll at such institution, the parental support obligation shall continue until the child completes his or her education, or until the child reaches the age of twenty-one, whichever first occurs. To remain eligible for such continued parental support, at the beginning of each semester the child shall submit to each parent a transcript or similar official document provided

by the institution of vocational or higher education which includes the courses the child is enrolled in and has completed for each term, the grades and credits received for each such course, and an official document from the institution listing the courses which the child is enrolled in for the upcoming term and the number of credits for each such course. When enrolled in at least twelve credit hours, if the child receives failing grades in half or more of his or her courseload in any one semester, payment of child support may be terminated and shall not be eligible for reinstatement. Upon request for notification of the child's grades by the noncustodial parent, the child shall produce the required documents to the noncustodial parent within thirty days of receipt of grades from the education institution. If the child fails to produce the required documents, payment of child support may terminate without the accrual of any child support arrearage and shall not be eligible for reinstatement. If the circumstances of the child manifestly dictate, the court may waive the October first deadline for enrollment required by this subsection. If the child is enrolled in such an institution, the child or parent obligated to pay support may petition the court to amend the order to direct the obligated parent to make the payments directly to the child. As used in this section, an "institution of vocational education" means any postsecondary training or schooling for which the student is assessed a fee and attends classes regularly. "Higher education" means any community college, college, or university at which the child attends classes regularly. A child who has been diagnosed with a developmental disability, as defined in section 630.005, RSMo, or whose physical disability or diagnosed health problem limits the child's ability to carry the number of credit hours prescribed in this subsection, shall remain eligible for child support so long as such child is enrolled in and attending an institution of vocational or higher education, and the child continues to meet the other requirements of this subsection. A child who is employed at least fifteen hours per week during the semester may take as few as nine credit hours per semester and remain eligible for child support so long as all other requirements of this subsection are complied with.

6. The court shall consider ordering a parent to waive the right to claim the tax dependency exemption for a child enrolled in an institution of vocational or higher education in favor of the other parent if the application of state and federal tax laws and eligibility for financial aid will make an award of the exemption to the other parent appropriate.

7. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child except for cases where the court specifically finds that such contact is not in the best interest of the child. In order to effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and child support orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or future obligation of support and may transfer the physical and legal or physical or legal custody of one or more children if it finds that a parent has, without good cause, failed to provide visitation or physical and legal or physical or legal custody to the other parent pursuant to the terms of a judgment of dissolution, legal separation or modifications thereof. The court shall also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

8. The Missouri supreme court shall have in effect a rule establishing guidelines by which any award of child support shall be made in any judicial or administrative proceeding. Said guidelines shall contain specific, descriptive and numeric criteria which will result in a computation of the support obligation. The guidelines shall address how the amount of child support shall be calculated when an award of joint physical custody results in the child or children spending substantially equal time with both parents. The Missouri supreme court shall publish child support guidelines and specifically list and explain the relevant factors and assumptions that were used to calculate the child support guidelines. Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less than once every four years to ensure that its application results in the determination of appropriate child support award amounts.

9. There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established pursuant to subsection 8 of this section is the correct amount of child support to be awarded. A written finding or specific finding on the record in a judicial or administrative proceeding that the application of the guidelines would be unjust or inappropriate in a particular case, after considering all relevant factors, including the factors set out in subsection 1 of this section, is required if requested by a party and shall be sufficient to rebut the presumption in the case. The written finding or specific finding on the record shall detail the specific relevant factors that required a deviation from the application of the guidelines.

10. Pursuant to this or any other chapter, when a court determines the amount owed by a parent for support provided to a child by another person, other than a parent, prior to the date of filing of a petition requesting support, or when the director of the family support division establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section 454.465, RSMo, the court or director shall use the guidelines established pursuant to subsection 8 of this section. The amount of child support resulting from the application of the guidelines shall be applied retroactively for a period prior to the establishment of a support order and the length of the period of retroactivity shall be left to the discretion of the court or director. There shall be a rebuttable presumption that the amount resulting from application of the guidelines under subsection 8 of this section constitutes the amount owed by the parent for the period prior to the date of the filing of the petition for support or the period for which state debt is being established. In applying the guidelines to determine a retroactive support amount, when information as to average monthly income is available, the court or director may use the average monthly income of the noncustodial parent, as averaged over the period of retroactivity, in determining the amount of presumed child support owed for the period of retroactivity. The court or director may enter a different amount in a particular case upon finding, after consideration of all relevant factors, including the factors set out in subsection 1 of this section, that there is sufficient cause to rebut the presumed amount.

11. The obligation of a parent to make child support payments may be terminated as follows:

(1) Provided that the **state case registry** or child support order contains the child's date of birth, the obligation shall be deemed terminated without further judicial or administrative process when the child reaches age twenty-one if the child support order does not specifically require payment of child support beyond age twenty-one for reasons provided by subsection 4 of this section;

(2) The obligation shall be deemed terminated without further judicial or administrative process when the parent receiving child support furnishes a sworn statement or affidavit notifying the obligor parent of the child's emancipation in accordance with the requirements of subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the court which entered the order establishing the child support obligation, or the **family support** division [of child support enforcement] **for an order entered under section 454.470**;

(3) The obligation shall be deemed terminated without further judicial or administrative process when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the family support division **for an order entered under section 454.470**, stating that the child is emancipated and reciting the factual basis for such statement; which statement or affidavit is served by the court or division, **as applicable**, on the child support obligee; and which is either acknowledged and affirmed by the child support obligee in writing, or which is not responded to in writing within thirty days of receipt by the child support obligee;

(4) The obligation shall be terminated as provided by this subdivision by the court which entered the order establishing the child support obligation, or the family support division **for an order entered under section 454.470**, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support

obligation, or the family support division, **as applicable**, stating that the child is emancipated and reciting the factual basis for such statement; and which statement or affidavit is served by the court or division, **as applicable**, on the child support obligee. If the obligee denies the statement or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a [motion to modify the support obligation pursuant to section 452.370 or section 454.496, RSMo.] **request for hearing** and shall proceed to hear and adjudicate such [motion] **request for hearing** as provided by law; provided that the court may require the payment of a deposit as security for court costs and any accrued court costs, as provided by law, in relation to such [motion to modify] **request for hearing**. **When the division receives a request for hearing, the hearing shall be held in the manner provided by section 454.475.**

12. The court may enter a judgment terminating child support pursuant to subdivisions (1) to (3) of subsection 11 of this section without necessity of a court appearance by either party. The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant to subsection 11 of this section on both the obligor and obligee parents. The supreme court may promulgate uniform forms for sworn statements and affidavits to terminate orders of child support obligations for use pursuant to subsection 11 of this section and subsection 4 of section 452.370.

452.430. AVAILABILITY OF CERTAIN RECORDS — LIMITATION ON INSPECTION OF CERTAIN DOCUMENTS — REDACTION OF SOCIAL SECURITY NUMBERS. — All pleadings and filings in a dissolution of marriage, legal separation, or modification proceeding, filed more than seventy-two years prior to the time a request for inspection is made may be made available to the public. Any pleadings, other than the interlocutory or final judgment or any modification thereof, in a dissolution of marriage [or] , legal separation, or modification proceeding filed prior to August 28, 2009, **but less than seventy-two years prior to the time a request for inspection is made**, shall be subject to inspection only by the parties [or] , an attorney of record [or upon order of the court for good cause shown, or by] , the family support division within the department of social services when services are being provided under section 454.400, [RSMo.] **the attorney general or his or her designee, a person or designee of a person licensed and acting under chapter 381 who shall keep any information obtained confidential, except as necessary to the performance of functions required by chapter 381, or upon order of the court for good cause shown. Such persons may receive or make copies of documents without the clerk being required to redact the Social Security number, unless the court specifically orders the clerk to do otherwise.** The clerk shall redact the Social Security number from any **copy of a judgment [or pleading] or satisfaction of judgment** before releasing the **copy of the interlocutory or final judgment or satisfaction of judgment** to the public.

454.475. ADMINISTRATIVE HEARING, PROCEDURE, EFFECT ON ORDERS OF SOCIAL SERVICES — SUPPORT, HOW DETERMINED — FAILURE OF PARENT TO APPEAR, RESULT — JUDICIAL REVIEW. — 1. Hearings provided for in this section shall be conducted pursuant to chapter 536, RSMo, by administrative hearing officers designated by the Missouri department of social services. The hearing officer shall provide the parents, the person having custody of the child, or other appropriate agencies or their attorneys with notice of any proceeding in which support obligations may be established or modified. The department shall not be stayed from enforcing and collecting upon the administrative order during the hearing process and during any appeal to the courts of this state, unless specifically enjoined by court order.

2. If no factual issue has been raised by the application for hearing, or the issues raised have been previously litigated or do not constitute a defense to the action, the director may enter an order without an evidentiary hearing, which order shall be a final decision entitled to judicial review as provided in sections 536.100 to 536.140, RSMo.

3. After full and fair hearing, the hearing officer shall make specific findings regarding the liability and responsibility, if any, of the alleged responsible parent for the support of the dependent child, and for repayment of accrued state debt or arrearages, and the costs of collection, and shall enter an order consistent therewith. In making the determination of the amount the parent shall contribute toward the future support of a dependent child, the hearing officer shall [use the scale and formula for minimum support obligations established by the department pursuant to section 454.480] **consider the factors set forth in section 452.340.**

4. If the person who requests the hearing fails to appear at the time and place set for the hearing, upon a showing of proper notice to that parent, the hearing officer shall enter findings and order in accordance with the provisions of the notice and finding of support responsibility unless the hearing officer determines that no good cause therefor exists.

5. In contested cases, the findings and order of the hearing officer shall be the decision of the director. Any parent or person having custody of the child adversely affected by such decision may obtain judicial review pursuant to sections 536.100 to 536.140, RSMo, by filing a petition for review in the circuit court of proper venue within thirty days of mailing of the decision. Copies of the decision or order of the hearing officer shall be mailed to any parent, person having custody of the child and the division within fourteen days of issuance.

6. If a hearing has been requested, and upon request of a parent, a person having custody of the child, the division or a IV-D agency, the director shall enter a temporary order requiring the provision of child support pending the final decision or order pursuant to this section if there is clear and convincing evidence establishing a presumption of paternity pursuant to section 210.822, RSMo. In determining the amount of child support, the director shall consider the factors set forth in section 452.340, RSMo. The temporary order, effective upon filing pursuant to section 454.490, is not subject to a hearing pursuant to this section. The temporary order may be stayed by a court of competent jurisdiction only after a hearing and a finding by the court that the order fails to comply with rule 88.01.

454.517. LIEN ON WORKERS' COMPENSATION, WHEN, PROCEDURE — NOTICE, CONTENTS — ENFORCEMENT OF LIEN — DUTIES OF DIRECTOR OF WORKERS' COMPENSATION — MISTAKE OF FACT. — 1. The director, IV-D agency or the obligee may cause a lien for unpaid and delinquent child or spousal support to be placed upon any workers' compensation benefits payable to an obligor delinquent in child or spousal support payments.

2. No such lien shall be effective unless and until a written notice is filed with the director of the division of workers' compensation. The notice shall contain the name and address of the delinquent obligor, the Social Security number of the obligor, if known, the name of the obligee, and the amount of delinquent child or spousal support.

3. Notice of lien shall not be filed unless the delinquent child or spousal support obligation exceeds one hundred dollars.

4. Any person or persons, firm or firms, corporation or corporations, including an insurance carrier, making any payment of workers' compensation benefits to such obligor or to such obligor's attorneys, heirs or legal representative, after receipt of such notice, as defined in subsection 5 of this section, shall be liable to the obligee or, if support has been assigned pursuant to subsection 2 of section 208.040, RSMo, to the state or IV-D agency in an amount equal to the lesser of the workers' compensation benefits paid or delinquent child or spousal support. In such event, the lien may be enforced by a suit at law against any person or persons, firm or firms, corporation or corporations making the workers' compensation benefit payment.

5. Upon the filing of a notice pursuant to this section, the director of the division of workers' compensation shall mail to the obligor and to all attorneys and insurance carriers of record, a copy of the notice. The obligor, attorneys and insurance carriers shall be deemed to have received the notice within five days of the mailing of the notice by the director of the division of workers' compensation. The lien described in this section shall attach to all workers' compensation benefits which are thereafter payable.

6. A notice issued by the IV-D agency of this state shall advise the obligor of the procedures to contest the lien under section 454.475 on the grounds that such lien is improper due to a mistake of fact by requesting a hearing within thirty days of the mailing date of the notice. At such a hearing the certified copy of the court order and the sworn or certified statement of arrearages shall constitute prima facie evidence that the director's order is valid and enforceable. If a prima facie case is established, the obligor may only assert mistake of fact as a defense. For purposes of this section, "mistake of fact" means an error in the amount of the overdue support or an error as to the identity of the obligor. The obligor shall have the burden of proof on such issues.

7. In cases which are not IV-D cases, to cause a lien pursuant to the provisions of this section the obligee or the obligor's attorney shall file notice of the lien with the lienholder or payor. This notice shall have attached a certified copy of the court order with all modifications and a sworn statement by the obligee or a certified statement from the court attesting to or certifying the amount of arrearages.

454.557. OBLIGATIONS NOT RECORDED IN AUTOMATED SYSTEM, WHEN. — 1. A current support obligation shall not be recorded in the records maintained in the automated child support system in the following cases:

(1) In a IV-D case with a support order pursuant to section 454.465 or 454.470 when the division determines that payments for current support are no longer due and should no longer be made to the payment center. The division shall notify by first class mail the obligor and obligee under the support orders that payments shall no longer be made to the payment center, and any withholding of income shall be terminated unless it is subsequently determined by the division or court having jurisdiction that payments will continue. The division's determination shall terminate the division's support order, but shall not terminate any obligation of support established by court order. The obligor and obligee may contest the decision of the division to terminate the division's support order by requesting a hearing within thirty days of the mailing of the notice provided pursuant to this section. The hearing shall comply with the provisions of section 454.475;

(2) In [a IV-D case] **all cases** with a support order entered by a court when the court that issued the support order terminates such order [and notifies the division]. The division shall also cease enforcing the order if no past support is due; or

(3) In all cases when the [child is twenty-two years of age, unless a court orders support to continue. The obligor or obligee may contest the decision of the division to terminate accruing support orders by requesting a hearing within thirty days of the mailing of notice by the division. The hearing shall comply with the provisions of section 454.475. The issue at the hearing, if any, shall be limited to a mistake of fact as to the age of the child or the existence of a court order requiring support after the age of twenty-two] **obligation of a parent to make child support payments is deemed terminated under subdivisions (1) to (4) of subsection 11 of section 452.340.**

2. Nothing in this section shall affect or terminate the amount due for unpaid past support.

454.1003. SUSPENSION OF A PROFESSIONAL OR OCCUPATIONAL LICENSE, WHEN, PROCEDURE. — 1. A court or the director of the division of child support enforcement may issue an order, or in the case of a business, professional or occupational license, only a court may issue an order, suspending an obligor's license and ordering the obligor to refrain from engaging in a licensed activity in the following cases:

(1) When the obligor is not making child support payments in accordance with a [court] **support** order and owes an arrearage in an amount greater than or equal to three months support payments or two thousand five hundred dollars, whichever is less, as of the date of service of a notice of intent to suspend such license; or

(2) When the obligor or any other person, after receiving appropriate notice, fails to comply with a subpoena of a court or the director concerning actions relating to the establishment of paternity, or to the establishment, modification or enforcement of support orders, or order of the director for genetic testing.

2. In any case but a IV-D case, upon the petition of an obligee alleging the existence of an arrearage, a court with jurisdiction over the support order may issue a notice of intent to suspend a license. In a IV-D case, the director, or a court at the request of the director, may issue a notice of intent to suspend.

3. The notice of intent to suspend a license shall be served on the obligor personally or by certified mail. If the proposed suspension of license is based on the obligor's support arrearage, the notice shall state that the obligor's license shall be suspended sixty days after service unless, within such time, the obligor:

- (1) Pays the entire arrearage stated in the notice;
- (2) Enters into and complies with a payment plan approved by the court or the division; or
- (3) Requests a hearing before the court or the director.

4. In a IV-D case, the notice shall advise the obligor that hearings are subject to the contested case provisions of chapter 536, RSMo.

5. If the proposed suspension of license is based on the alleged failure to comply with a subpoena relating to paternity or a child support proceeding, or order of the director for genetic testing, the notice of intent to suspend shall inform the person that such person's license shall be suspended sixty days after service, unless the person complies with the subpoena or order.

6. If the obligor fails to comply with the terms of repayment agreement, a court or the division may issue a notice of intent to suspend the obligor's license.

7. In addition to the actions to suspend or withhold licenses pursuant to this chapter, a court or the director of the division of child support enforcement may restrict such licenses in accordance with the provisions of this chapter.

488.429. FUND PAID TO TREASURER MAY BE DESIGNATED BY CIRCUIT JUDGE — USE OF FUND FOR LAW LIBRARY, AND COURTROOM RENOVATION AND TECHNOLOGY ENHANCEMENT IN CERTAIN COUNTIES. — 1. Moneys collected pursuant to section 488.426 shall be payable to the judges of the circuit court, en banc, of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund may be applied and expended under the direction and order of the judges of the circuit court, en banc, of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the judges of the circuit court, en banc, of any such county; provided, that the judges of the circuit court, en banc, of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.

2. In addition, such fund may also be applied and expended for that county's or circuit's family services and justice fund.

3. In any county[, other than a county on the nonpartisan court plan,] such fund may also be applied and expended for courtroom renovation and technology enhancement, or for debt service on county bonds for such renovation or enhancement projects.

493.055. PUBLICATION OF CERTAIN REAL ESTATE TRANSACTIONS. — All public advertisements and orders of publication required by law to be made, including but not limited to amendments to the Missouri Constitution, legal publications affecting all sales of real estate under a power of sale contained in any mortgage or deed of trust, and other legal publications affecting the title to real estate, shall be published in a newspaper of general circulation, qualified under the provisions of section 493.050, and persons

responsible for orders of publication described in sections 443.310 and 443.320, shall be subject to the prohibitions in sections 493.130 and 493.140.

537.296. PRIVATE NUISANCE ACTION IN EXCESS OF ONE MILLION DOLLARS, COURT OR JURY SHALL VISIT PROPERTY. — [In any action for private nuisance where the amount in controversy exceeds one million dollars,] If any party requests the court or jury [to] visit the property alleged to be affected by the nuisance **in an action for private nuisance where the amount in controversy exceeds one million dollars**, the court or jury shall visit the property.

563.011. CHAPTER DEFINITIONS. — As used in this chapter the following terms shall mean:

(1) "Deadly force", physical force which the actor uses with the purpose of causing or which he or she knows to create a substantial risk of causing death or serious physical injury;

(2) "Dwelling", any building, inhabitable structure, or conveyance of any kind, whether the building, inhabitable structure, or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night;

(3) "Forcible felony", any felony involving the use or threat of physical force or violence against any individual, including but not limited to murder, robbery, burglary, arson, kidnapping, assault, and any forcible sexual offense;

(4) "Premises", includes any building, inhabitable structure and any real property;

(5) "Private person", any person other than a law enforcement officer;

(6) **"Private property", any real property in this state that is privately owned or leased;**

(7) "Remain after unlawfully entering", to remain in or upon premises after unlawfully entering as defined in this section;

[(7)] (8) "Residence", a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest;

[(8)] (9) "Unlawfully enter", a person unlawfully enters in or upon premises **or private property** when he or she enters such premises **or private property** and is not licensed or privileged to do so. A person who, regardless of his or her purpose, enters in or upon **private property** or premises that are at the time open to the public does so with license unless he or she defies a lawful order not to enter, personally communicated to him or her by the owner of such premises or by another authorized person. A license to enter in a building that is only partly open to the public is not a license to enter in that part of the building that is not open to the public.

563.031. USE OF FORCE IN DEFENSE OF PERSONS. — 1. A person may, subject to the provisions of subsection 2 of this section, use physical force upon another person when and to the extent he or she reasonably believes such force to be necessary to defend himself or herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful force by such other person, unless:

(1) The actor was the initial aggressor; except that in such case his or her use of force is nevertheless justifiable provided:

(a) He or she has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened use of unlawful force; or

(b) He or she is a law enforcement officer and as such is an aggressor pursuant to section 563.046; or

(c) The aggressor is justified under some other provision of this chapter or other provision of law;

(2) Under the circumstances as the actor reasonably believes them to be, the person whom he or she seeks to protect would not be justified in using such protective force;

(3) The actor was attempting to commit, committing, or escaping after the commission of a forcible felony.

2. A person may not use deadly force upon another person under the circumstances specified in subsection 1 of this section unless:

(1) He or she reasonably believes that such deadly force is necessary to protect himself or herself or another against death, serious physical injury, or any forcible felony; [or]

(2) Such force is used against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter a dwelling, residence, or vehicle lawfully occupied by such person; or

(3) Such force is used against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter private property that is owned or leased by an individual claiming a justification of using protective force under this section.

3. A person does not have a duty to retreat from a dwelling, residence, or vehicle where the person is not unlawfully entering or unlawfully remaining. **A person does not have a duty to retreat from private property that is owned or leased by such individual.**

4. The justification afforded by this section extends to the use of physical restraint as protective force provided that the actor takes all reasonable measures to terminate the restraint as soon as it is reasonable to do so.

5. The defendant shall have the burden of injecting the issue of justification under this section. **If a defendant asserts that his or her use of force is described under subdivision (2) of subsection 2 of this section, the burden shall then be on the state to prove beyond a reasonable doubt that the defendant did not reasonably believe that the use of such force was necessary to defend against what he or she reasonably believed was the use or imminent use of unlawful force.**

571.030. UNLAWFUL USE OF WEAPONS — EXCEPTIONS — PENALTIES. — 1. A person commits the crime of unlawful use of weapons if he or she knowingly:

(1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or

(2) Sets a spring gun; or

(3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any building or structure used for the assembling of people; or

(4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or

(5) [Possesses or discharges a firearm or projectile weapon while intoxicated] **Has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense;**

(6) Discharges a firearm within one hundred yards of any occupied schoolhouse, courthouse, or church building; or

(7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or

(8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof; or

(9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, RSMo, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or

(10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this section shall not apply to or affect any of the following **when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties**:

(1) All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to sections 590.030 to 590.050, RSMo, and [possessing] **who possess** the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection 10 of this section, and who carry the identification defined in subsection 11 of this section, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;

(5) Any person whose bona fide duty is to execute process, civil or criminal;

(6) Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921;

(7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;

(8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340, RSMo; [and]

(9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner; **and**

(10) Any prosecuting attorney or assistant prosecuting attorney or any circuit attorney or assistant circuit attorney who has completed the firearms safety training course required under subsection 2 of section 571.111.

3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply to any person twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to sections 571.101 to

571.121 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031, RSMo.

6. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

7. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this section, in which case it is a class A misdemeanor if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section, in which case it is a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

8. Violations of subdivision (9) of subsection 1 of this section shall be punished as follows:

(1) For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;

(2) For any violation by a prior offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;

(3) For any violation by a persistent offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;

(4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

9. Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

10. As used in this section "qualified retired peace officer" means an individual who:

(1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;

(2) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3) Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;

(5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) Is not prohibited by federal law from receiving a firearm.

11. The identification required by subdivision (1) of subsection 2 of this section is:

(1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise

found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or

(2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and

(3) A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.

571.070. POSSESSION OF FIREARM UNLAWFUL FOR CERTAIN PERSONS — PENALTY — EXCEPTION. — 1. A person commits the crime of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and:

(1) Such person has been convicted of a felony under the laws of this state, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a felony; or

(2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

2. Unlawful possession of a firearm is a class C felony.

3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to the possession of an antique firearm.

571.104. SUSPENSION OR REVOCATION OF ENDORSEMENTS, WHEN — RENEWAL PROCEDURES — CHANGE OF NAME OR RESIDENCE NOTIFICATION REQUIREMENTS. — 1. (1) A concealed carry endorsement issued pursuant to sections 571.101 to 571.121 shall be suspended or revoked if the concealed carry endorsement holder becomes ineligible for such concealed carry endorsement under the criteria established in subdivisions (2), (3), (4), (5), and (7) of subsection 2 of section 571.101 or upon the issuance of a valid full order of protection.

(2) When a valid full order of protection, or any arrest warrant, discharge, or commitment for the reasons listed in subdivision (2), (3), (4), (5), or (7) of subsection 2 of section 571.101, is issued against a person holding a concealed carry endorsement issued pursuant to sections 571.101 to 571.121 upon notification of said order, warrant, discharge or commitment or upon an order of a court of competent jurisdiction in a criminal proceeding, a commitment proceeding or a full order of protection proceeding ruling that a person holding a concealed carry endorsement presents a risk of harm to themselves or others, then upon notification of such order, the holder of the concealed carry endorsement shall surrender the driver's license or nondriver's license containing the concealed carry endorsement to the court, to the officer, or other official serving the order, warrant, discharge, or commitment.

(3) The official to whom the driver's license or nondriver's license containing the concealed carry endorsement is surrendered shall issue a receipt to the licensee for the license upon a form, approved by the director of revenue, that serves as a driver's license or a nondriver's license and clearly states the concealed carry endorsement has been suspended. The official shall then transmit the driver's license or a nondriver's license containing the concealed carry endorsement to the circuit court of the county issuing the order, warrant, discharge, or commitment. The concealed carry endorsement issued pursuant to sections 571.101 to 571.121 shall be suspended until the order is terminated or until the arrest results in a dismissal of all charges. Upon dismissal, the court holding the driver's license or nondriver's license containing the concealed carry endorsement shall return it to the individual.

(4) Any conviction, discharge, or commitment specified in sections 571.101 to 571.121 shall result in a revocation. Upon conviction, the court shall forward a notice of conviction or action and the driver's license or nondriver's license with the concealed carry endorsement to the

department of revenue. The department of revenue shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and shall report the change in status of the concealed carry endorsement to the Missouri uniform law enforcement system. The director of revenue shall immediately remove the endorsement issued pursuant to sections 571.101 to 571.121 from the individual's driving record within three days of the receipt of the notice from the court. The director of revenue shall notify the licensee that he or she must apply for a new license pursuant to chapter 302, RSMo, which does not contain such endorsement. This requirement does not affect the driving privileges of the licensee. The notice issued by the department of revenue shall be mailed to the last known address shown on the individual's driving record. The notice is deemed received three days after mailing.

2. A concealed carry endorsement shall be renewed for a qualified applicant upon receipt of the properly completed renewal application and the required renewal fee by the sheriff of the county of the applicant's residence. The renewal application shall contain the same required information as set forth in subsection 3 of section 571.101, except that in lieu of the fingerprint requirement of subsection 5 of section 571.101 and the firearms safety training, the applicant need only display his or her current driver's license or nondriver's license containing a concealed carry endorsement. Upon successful completion of all renewal requirements, the sheriff shall issue a certificate of qualification which contains the date such certificate was renewed.

3. A person who has been issued a certificate of qualification for a concealed carry endorsement who fails to file a renewal application on or before its expiration date must pay an additional late fee of ten dollars per month for each month it is expired for up to six months. After six months, the sheriff who issued the expired certificate shall notify the director of revenue that such certificate is expired. The director of revenue shall immediately cancel the concealed carry endorsement and remove such endorsement from the individual's driving record and notify the individual of such cancellation. The notice of cancellation of the endorsement shall be conducted in the same manner as described in subsection 1 of this section. Any person who has been issued a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121 who fails to renew his or her application within the six-month period must reapply for a new certificate of qualification for a concealed carry endorsement and pay the fee for a new application. The director of revenue shall not issue an endorsement on a renewed driver's license or renewed nondriver's license unless the applicant for such license provides evidence that he or she has renewed the certification of qualification for a concealed carry endorsement in the manner provided for such renewal pursuant to sections 571.101 to 571.121. If an applicant for renewal of a driver's license or nondriver's license containing a concealed carry endorsement does not want to maintain the concealed carry endorsement, the applicant shall inform the director at the time of license renewal of his or her desire to remove the endorsement. When a driver's or nondriver's license applicant informs the director of his or her desire to remove the concealed carry endorsement, the director shall renew the driver's license or nondriver's license without the endorsement appearing on the license if the applicant is otherwise qualified for such renewal.

4. Any person issued a concealed carry endorsement pursuant to sections 571.101 to 571.121 shall notify the department of revenue and the sheriffs of both the old and new jurisdictions of the endorsement holder's change of residence within thirty days after the changing of a permanent residence. The endorsement holder shall furnish proof to the department of revenue and the sheriff in the new jurisdiction that the endorsement holder has changed his or her residence. **The sheriff of the new jurisdiction may charge a processing fee of not more than ten dollars for any costs associated with notification of a change in residence.** The change of residence shall be made by the department of revenue onto the individual's driving record and the new address shall be accessible by the Missouri uniform law enforcement system within three days of receipt of the information.

5. Any person issued a driver's license or nondriver's license containing a concealed carry endorsement pursuant to sections 571.101 to 571.121 shall notify the sheriff or his or her

designee of the endorsement holder's county or city of residence within seven days after actual knowledge of the loss or destruction of his or her driver's license or nondriver's license containing a concealed carry endorsement. The endorsement holder shall furnish a statement to the sheriff that the driver's license or nondriver's license containing the concealed carry endorsement has been lost or destroyed. After notification of the loss or destruction of a driver's license or nondriver's license containing a concealed carry endorsement, the sheriff shall reissue a new certificate of qualification within three working days of being notified by the concealed carry endorsement holder of its loss or destruction. The reissued certificate of qualification shall contain the same personal information, including expiration date, as the original certificate of qualification. The applicant shall then take the certificate to the department of revenue, and the department of revenue shall proceed on the certificate in the same manner as provided in subsection 7 section 571.101. Upon application for a license pursuant to chapter 302, RSMo, the director of revenue shall issue a driver's license or nondriver's license containing a concealed carry endorsement if the applicant is otherwise eligible to receive such license.

6. If a person issued a concealed carry endorsement changes his or her name, the person to whom the endorsement was issued shall obtain a corrected certificate of qualification for a concealed carry endorsement with a change of name from the sheriff who issued such certificate upon the sheriff's verification of the name change. **The sheriff may charge a processing fee of not more than ten dollars for any costs associated with obtaining a corrected certificate of qualification.** The endorsement holder shall furnish proof of the name change to the department of revenue and the sheriff within thirty days of changing his or her name and display his or her current driver's license or nondriver's license containing a concealed carry endorsement. The endorsement holder shall apply for a new driver's license or nondriver's license containing his or her new name. Such application for a driver's license or nondriver's license shall be made pursuant to chapter 302, RSMo. The director of revenue shall issue a driver's license or nondriver's license with concealed carry endorsement with the endorsement holder's new name if the applicant is otherwise eligible for such license. The director of revenue shall take custody of the old driver's license or nondriver's license. The name change shall be made by the department of revenue onto the individual's driving record and the new name shall be accessible by the Missouri uniform law enforcement system within three days of receipt of the information.

7. A concealed carry endorsement shall be automatically invalid after thirty days if the endorsement holder has changed his or her name or changed his or her residence and not notified the department of revenue and sheriff of a change of name or residence as required in subsections 4 and 6 of this section.

571.107. ENDORSEMENT DOES NOT AUTHORIZE CONCEALED FIREARMS, WHERE — PENALTY FOR VIOLATION. — 1. A concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the state. No driver's license or nondriver's license containing a concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize any person to carry concealed firearms into:

(1) Any police, sheriff, or highway patrol office or station without the consent of the chief law enforcement officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(2) Within twenty-five feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(3) The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention, or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(4) Any courthouse solely occupied by the circuit, appellate or supreme court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This subdivision shall also include, but not be limited to, any juvenile, family, drug, or other court offices, any room or office wherein any of the courts or offices listed in this subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by supreme court rule pursuant to subdivision (6) of this subsection. Nothing in this subdivision shall preclude those persons listed in subdivision (1) of subsection 2 of section 571.030 while within their jurisdiction and on duty, those persons listed in subdivisions (2) [and], (4), **and (10)** of subsection 2 of section 571.030, or such other persons who serve in a law enforcement capacity for a court as may be specified by supreme court rule pursuant to subdivision (6) of this subsection from carrying a concealed firearm within any of the areas described in this subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this subdivision shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(5) Any meeting of the governing body of a unit of local government; or any meeting of the general assembly or a committee of the general assembly, except that nothing in this subdivision shall preclude a member of the body holding a valid concealed carry endorsement from carrying a concealed firearm at a meeting of the body which he or she is a member. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(6) The general assembly, supreme court, county or municipality may by rule, administrative regulation, or ordinance prohibit or limit the carrying of concealed firearms by endorsement holders in that portion of a building owned, leased or controlled by that unit of government. Any portion of a building in which the carrying of concealed firearms is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute, rule or ordinance shall exempt any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of a firearm. The statute, rule or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute, rule or ordinance may be denied entrance to the building, ordered to leave the building and if employees of the unit of government, be subjected to disciplinary measures for violation of the provisions of the statute, rule or ordinance. The provisions of this subdivision shall not apply to any other unit of government;

(7) Any establishment licensed to dispense intoxicating liquor for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty persons and that receives at least fifty-one percent of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;

(8) Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be a

criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(9) Any place where the carrying of a firearm is prohibited by federal law;

(10) Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(11) Any portion of a building used as a child-care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child-care facility in a family home from owning or possessing a firearm or a driver's license or nondriver's license containing a concealed carry endorsement;

(12) Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the gaming commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(13) Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(14) Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(15) Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches with the writing thereon in letters of not less than one inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity, or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer;

(16) Any sports arena or stadium with a seating capacity of five thousand or more. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(17) Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

2. Carrying of a concealed firearm in a location specified in subdivisions (1) to (17) of subsection 1 of this section by any individual who holds a concealed carry endorsement issued pursuant to sections 571.101 to 571.121 shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars for the first offense. If a second citation for a similar violation

occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars and his or her endorsement to carry concealed firearms shall be suspended for a period of one year. If a third citation for a similar violation is issued within one year of the first citation, such person shall be fined an amount not to exceed five hundred dollars and shall have his or her concealed carry endorsement revoked and such person shall not be eligible for a concealed carry endorsement for a period of three years. Upon conviction of charges arising from a citation issued pursuant to this subsection, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue. The sheriff shall suspend or revoke the certificate of qualification for a concealed carry endorsement and the department of revenue shall issue a notice of such suspension or revocation of the concealed carry endorsement and take action to remove the concealed carry endorsement from the individual's driving record. The director of revenue shall notify the licensee that he or she must apply for a new license pursuant to chapter 302, RSMo, which does not contain such endorsement. A concealed carry endorsement suspension pursuant to sections 571.101 to 571.121 shall be reinstated at the time of the renewal of his or her driver's license. The notice issued by the department of revenue shall be mailed to the last known address shown on the individual's driving record. The notice is deemed received three days after mailing.

[214.290. MINIMUM ENDOWED CARE AND MAINTENANCE FUND ON ELECTION. — Any cemetery operator who within ninety days from the effective date of sections 214.270 to 214.410 elects to operate a cemetery which exists on the effective date of sections 214.270 to 214.410 as an endowed care cemetery or who represents to the public that perpetual, permanent, endowed, continual, eternal care, care of duration or similar care will be furnished cemetery property sold, shall before selling or disposing of any interment space or lots in said cemetery after the date of such election, establish a minimum endowed care and maintenance fund in cash in the amount required by section 214.300 unless an endowed care fund is already in existence to which regular deposits have been made (whether or not the fund then existing shall be in the minimum amount required under section 214.300).]

Approved July 12, 2010

HB 1695 [SS SCS HCS HB 1695, 1742 & 1674]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding intoxication-related traffic offenses

AN ACT to repeal sections 302.309, 302.750, 478.001, 478.003, 478.009, 479.170, 542.276, 577.010, 577.012, 577.023, 577.039, 577.041, and 577.054, RSMo, and to enact in lieu thereof sixteen new sections relating to intoxication-related traffic offenses, with penalty provisions.

SECTION

- A. Enacting clause.
- 302.309. Return of license, when — limited driving privilege, when granted, application, when denied — judicial review of denial by director of revenue — rulemaking.
- 302.750. Refusal to consent to test, effect — procedures — hearing allowed, when.
- 478.001. Drug courts, establishment, purpose — referrals to certified treatment programs required, exceptions — completion of treatment program, effect — DWI docket permitted, certain circuits.
- 478.003. Administration — commissioners, appointment, term, removal, powers, duties, qualifications, compensation — orders of commissioners, confirmation or rejection by judges, effect.

- 478.007. DWI, alternative disposition of cases, docket or court may be established (Jackson County).
- 478.009. Drug courts coordinating commission established, members, meetings — fund created.
- 479.170. Municipal judge without jurisdiction, when, procedure.
- 542.276. Who may apply for search warrant — contents of application, affidavit — where filed, hearing — contents of warrant — who may execute, return, when and how made — warrant deemed invalid, when.
- 577.005. Intoxication — related traffic offenses, policies required for forwarding to MULES.
- 577.006. Intoxication-related traffic offenses, municipal judges to receive adequate instruction — written policy on timely disposition of cases — report required.
- 577.010. Driving while intoxicated — sentencing restrictions, Jackson County.
- 577.012. Driving with excessive blood alcohol content — sentencing restrictions, Jackson County.
- 577.023. Aggravated, chronic, persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.
- 577.039. Arrest without warrant, lawful, when.
- 577.041. Refusal to submit to chemical test — notice, report of peace officer, contents — revocation of license, hearing — evidence, admissibility — reinstatement of licenses — substance abuse traffic offender program — assignment recommendations, judicial review — fees.
- 577.054. Alcohol-related driving offenses, expunged from records, when — procedures, effect — limitations

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 302.309, 302.750, 478.001, 478.003, 478.009, 479.170, 542.276, 577.010, 577.012, 577.023, 577.039, 577.041, and 577.054, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 302.309, 302.750, 478.001, 478.003, 478.007, 478.009, 479.170, 542.276, 577.005, 577.006, 577.010, 577.012, 577.023, 577.039, 577.041, and 577.054, to read as follows:

302.309. RETURN OF LICENSE, WHEN — LIMITED DRIVING PRIVILEGE, WHEN GRANTED, APPLICATION, WHEN DENIED — JUDICIAL REVIEW OF DENIAL BY DIRECTOR OF REVENUE — RULEMAKING. — 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

2. Any operator whose license is revoked pursuant to these sections, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts [or], the director of revenue, **or a commissioner operating under section 478.007** shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs;
- (e) Seeking the required services of a certified ignition interlock device provider; or
- (f) Any other circumstance the court or director finds would create an undue hardship on the operator; the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified

by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for that vehicle.

(4) No limited driving privilege shall be issued to any person otherwise eligible under the provisions of paragraph (a) of subdivision (6) of this subsection on a license revocation resulting from a conviction under subdivision (9) of subsection 1 of section 302.302, or a license denial under paragraph (a) or (b) of subdivision (8) of this subsection, until the applicant has filed proof with the department of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of limited driving privilege.

(5) The court order or the director's grant of the limited or restricted driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. Failure of the driver to maintain proof of financial responsibility, as required by chapter 303, or to maintain proof of installation of a functioning, certified ignition interlock device, as applicable, shall terminate the privilege. The director shall notify by ordinary mail the driver whose privilege is so terminated.

(6) Except as provided in subdivision (8) of this subsection, no person is eligible to receive a limited driving privilege who at the time of application for a limited driving privilege has previously been granted such a privilege within the immediately preceding five years, or whose license has been suspended or revoked for the following reasons:

(a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, until the person has completed the first thirty days of a suspension or revocation imposed pursuant to this chapter;

(b) A conviction of any felony in the commission of which a motor vehicle was used;

(c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

(d) Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as provided in section 577.060, RSMo;

(e) Due to a revocation for the first time for failure to submit to a chemical test pursuant to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if such person has not completed the first ninety days of such revocation;

(f) Violation more than once of the provisions of section 577.041, RSMo, or a similar implied consent law of any other state; or

(g) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525 if such person has not completed such revocation.

(7) No person who possesses a commercial driver's license shall receive a limited driving privilege issued for the purpose of operating a commercial motor vehicle if such person's driving privilege is suspended, revoked, canceled, denied, or disqualified. Nothing in this section shall prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial motor vehicle provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege.

(8) (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least three years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding three years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state.

(b) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege or convicted of involuntary manslaughter while operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least two years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding two years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision.

(9) A DWI docket or court established under section 478.007 may grant a limited driving privilege to a participant in or graduate of the program who would otherwise be ineligible for such privilege under another provision of law. The DWI docket or court shall not grant a limited driving privilege to a participant during his or her initial forty-five days of participation.

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become

effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

302.750. REFUSAL TO CONSENT TO TEST, EFFECT — PROCEDURES — HEARING ALLOWED, WHEN. — 1. If a person refuses, upon the request of a law enforcement officer pursuant to section 302.745, to submit to any test allowed under that section, [then none shall be given and] evidence of the refusal shall be admissible in any proceeding to determine whether a person was operating a commercial motor vehicle while under the influence of alcohol or controlled substances. In this event, the officer shall make a sworn report to the director that he requested a test pursuant to section 302.745 and that the person refused to submit to such testing.

2. A person requested to submit to a test as provided by section 302.745 shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test will result in that person being immediately placed out of service for a period of twenty-four hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year if for a first refusal to submit to the test and for life if for a second or subsequent refusal to submit to the test. The director may issue rules and regulations, in accordance with guidelines established by the secretary, under which a disqualification for life under this section may be reduced to a period of not less than ten years.

3. Upon receipt of the sworn report of a law enforcement officer submitted under subsection 1 of this section, the director shall disqualify the driver from operating a commercial motor vehicle.

4. If a person has been disqualified from operating a commercial motor vehicle because of his refusal to submit to a chemical test, he may request a hearing before a court of record in the county in which the request was made. Upon his request, the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the officer. At the hearing the judge shall determine only:

(1) Whether or not the law enforcement officer had reasonable grounds to believe that the person was driving a commercial motor vehicle with any amount of alcohol in his system;

(2) Whether or not the person refused to submit to the test.

5. If the judge determines any issues not to be in the affirmative, he shall order the director to reinstate the privilege to operate a commercial motor vehicle.

6. Requests for review as herein provided shall go to the head of the docket of the court wherein filed.

478.001. DRUG COURTS, ESTABLISHMENT, PURPOSE — REFERRALS TO CERTIFIED TREATMENT PROGRAMS REQUIRED, EXCEPTIONS — COMPLETION OF TREATMENT PROGRAM, EFFECT — DWI DOCKET PERMITTED, CERTAIN CIRCUITS. — 1. Drug courts may be established by any circuit court pursuant to sections 478.001 to 478.006 to provide an alternative for the judicial system to dispose of cases which stem from drug use. A drug court shall combine judicial supervision, drug testing and treatment of drug court participants. Except for good cause found by the court, a drug court making a referral for substance abuse treatment, when such program will receive state or federal funds in connection with such referral, shall refer the person only to a program which is certified by the department of mental health, unless no appropriate certified treatment program is located within the same county as the drug court. Upon successful completion of the treatment program, the charges, petition or penalty against a drug court participant may be dismissed, reduced or modified. Any fees received by a court

from a defendant as payment for substance treatment programs shall not be considered court costs, charges or fines.

2. Under sections 478.001 to 478.007, a DWI docket may be established by a circuit court, or any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants with a county municipal court established under section 66.010, to provide an alternative for the judicial system to dispose of cases which stem from driving while intoxicated. A drug court commissioner may serve as a commissioner in a DWI court or any other treatment or problem-solving court as designated by the drug court coordinating commission. Drug court commissioners may serve in counties other than the county they are appointed upon agreement by the presiding judge of that county and assignment by the supreme court.

478.003. ADMINISTRATION — COMMISSIONERS, APPOINTMENT, TERM, REMOVAL, POWERS, DUTIES, QUALIFICATIONS, COMPENSATION — ORDERS OF COMMISSIONERS, CONFIRMATION OR REJECTION BY JUDGES, EFFECT. — In any judicial circuit of this state, a majority of the judges of the circuit court may designate a judge to hear cases arising in the circuit subject to the provisions of sections 478.001 to [478.006] **478.007**. In lieu thereof and subject to appropriations or other funds available for such purpose, a majority of the judges of the circuit court may appoint a person or persons to act as drug court commissioners. Each commissioner shall be appointed for a term of four years, but may be removed at any time by a majority of the judges of the circuit court. The qualifications and compensation of the commissioner shall be the same as that of an associate circuit judge. If the compensation of a commissioner appointed pursuant to this section is provided from other than state funds, the source of such fund shall pay to and reimburse the state for the actual costs of the salary and benefits of the commissioner. The commissioner shall have all the powers and duties of a circuit judge, except that any order, judgment or decree of the commissioner shall be confirmed or rejected by an associate circuit or circuit judge by order of record entered within the time the judge could set aside such order, judgment or decree had the same been made by the judge. If so confirmed, the order, judgment or decree shall have the same effect as if made by the judge on the date of its confirmation.

478.007. DWI, ALTERNATIVE DISPOSITION OF CASES, DOCKET OR COURT MAY BE ESTABLISHED (JACKSON COUNTY). — 1. Any circuit court, or any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants with a county municipal court established under section 66.010, may establish a docket or court to provide an alternative for the judicial system to dispose of cases in which a person has pleaded guilty to driving while intoxicated or driving with excessive blood alcohol content and:

- (1) The person was operating a motor vehicle with at least fifteen-hundredths of one percent or more by weight of alcohol in such person's blood; or**
- (2) The person has previously pleaded guilty to or has been found guilty of one or more intoxication-related traffic offenses as defined by section 577.023; or**
- (3) The person has two or more previous alcohol-related enforcement contacts as defined in section 302.525.**

2. This docket or court shall combine judicial supervision, drug testing, continuous alcohol monitoring, substance abuse traffic offender program compliance, and treatment of DWI court participants. The court may assess any and all necessary costs for participation in DWI court against the participant. Any money received from such assessed costs by a court from a defendant shall not be considered court costs, charges, or fines. This docket or court may operate in conjunction with a drug court established pursuant to sections 478.001 to 478.006.

478.009. DRUG COURTS COORDINATING COMMISSION ESTABLISHED, MEMBERS, MEETINGS—FUND CREATED. — 1. In order to coordinate the allocation of resources available to drug courts **and the dockets or courts established by section 478.007** throughout the state, there is hereby established a "Drug Courts Coordinating Commission" in the judicial department. The drug courts coordinating commission shall consist of one member selected by the director of the department of corrections; one member selected by the director of the department of social services; one member selected by the director of the department of mental health; one member selected by the director of the department of public safety; one member selected by the state courts administrator; and three members selected by the supreme court. The supreme court shall designate the chair of the commission. The commission shall periodically meet at the call of the chair; evaluate resources available for assessment and treatment of persons assigned to drug courts or for operation of drug courts; secure grants, funds and other property and services necessary or desirable to facilitate drug court operation; and allocate such resources among the various drug courts operating within the state.

2. There is hereby established in the state treasury a "Drug Court Resources Fund", which shall be administered by the drug courts coordinating commission. Funds available for allocation or distribution by the drug courts coordinating commission may be deposited into the drug court resources fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the drug court resources fund shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each biennium, but shall remain deposited to the credit of the drug court resources fund.

479.170. MUNICIPAL JUDGE WITHOUT JURISDICTION, WHEN, PROCEDURE. — 1. If, in the progress of any trial before a municipal judge, it shall appear to the judge that the accused ought to be put upon trial for an offense against the criminal laws of the state and not cognizable before him as municipal judge, he shall immediately stop all further proceedings before him as municipal judge and cause the complaint to be made before some associate circuit judge within the county.

2. **For purposes of this section, any offense involving the operation of a motor vehicle in an intoxicated condition as defined in section 577.001 shall not be cognizable in municipal court, if the defendant has been convicted, found guilty, or pled guilty to two or more previous intoxication-related traffic offenses as defined in section 577.023, or has had two or more previous alcohol-related enforcement contacts as defined in section 302.525.**

542.276. WHO MAY APPLY FOR SEARCH WARRANT — CONTENTS OF APPLICATION, AFFIDAVIT — WHERE FILED, HEARING — CONTENTS OF WARRANT — WHO MAY EXECUTE, RETURN, WHEN AND HOW MADE — WARRANT DEEMED INVALID, WHEN. — 1. Any peace officer or prosecuting attorney may make application under section 542.271 for the issuance of a search warrant.

2. The application shall:

- (1) Be in writing;
 - (2) State the time and date of the making of the application;
 - (3) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - (4) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;
 - (5) State facts sufficient to show probable cause for the issuance of a search warrant;
 - (6) Be verified by the oath or affirmation of the applicant;
 - (7) Be filed in the proper court;
-

(8) Be signed by the prosecuting attorney of the county where the search is to take place, or his or her designated assistant.

3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the person, place, or thing to be searched or of the property, article, material, substance, or person to be seized. Oral testimony shall not be considered. The application may be submitted by facsimile or other electronic means.

4. The judge shall determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting affidavit that there is probable cause to believe that property, article, material, substance, or person subject to seizure is on the person or at the place or in the thing described, a search warrant shall immediately be issued. The warrant shall be issued in the form of an original and two copies.

5. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the court from which the warrant was issued.

6. The search warrant shall:

(1) Be in writing and in the name of the state of Missouri;

(2) Be directed to any peace officer in the state;

(3) State the time and date the warrant is issued;

(4) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(5) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;

(6) Command that the described person, place, or thing be searched and that any of the described property, article, material, substance, or person found thereon or therein be seized or photographed or copied and within ten days after filing of the application, any photographs or copies of the items may be filed with the issuing court;

(7) Be signed by the judge, with his or her title of office indicated.

7. A search warrant issued under this section may be executed only by a peace officer. The warrant shall be executed by conducting the search and seizure commanded. The search warrant issued under this section may be issued by facsimile or other electronic means.

8. A search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten days after the date of the making of the application. A search and any subsequent searches of the contents of any property, article, material, or substance seized and removed from the location of the execution of any search warrant during its execution may be conducted at any time during or after the execution of the warrant, subject to the continued existence of probable cause to search the property, article, material, or substance seized and removed. A search and any subsequent searches of the property, article, material, or substance seized and removed may be conducted after the time for delivering the warrant, return, and receipt to the issuing judge has expired. A supplemental return and receipt shall be delivered to the issuing judge upon final completion of any search which concludes after the expiration of time for delivering the original return and receipt.

9. After execution of the search warrant, the warrant with a return thereon, signed by the officer making the search, shall be delivered to the judge who issued the warrant. The return shall show the date and manner of execution, what was seized, and the name of the possessor and of the owner, when he or she is not the same person, if known. The return shall be accompanied by a copy of the itemized receipt required by subsection 6 of section 542.291. The judge or clerk shall, upon request, deliver a copy of such receipt to the person from whose possession the property was taken and to the applicant for the warrant.

10. A search warrant shall be deemed invalid:

- (1) If it was not issued by a judge; or
- (2) If it was issued without a written application having been filed and verified; or
- (3) If it was issued without probable cause; or
- (4) If it was not issued in the proper county; or
- (5) If it does not describe the person, place, or thing to be searched or the property, article, material, substance, or person to be seized with sufficient certainty; or
- (6) If it is not signed by the judge who issued it; or
- (7) If it was not executed within the time prescribed by subsection 8 of this section.

11. The application or execution of a search warrant shall not be deemed invalid for the sole reason that the application or execution of the warrant relies upon electronic signatures of the peace officer or prosecutor seeking the warrant or judge issuing the warrant.

577.005. INTOXICATION — RELATED TRAFFIC OFFENSES, POLICIES REQUIRED FOR FORWARDING TO MULES. — 1. Each law enforcement agency shall adopt a policy requiring arrest information for all intoxication-related traffic offenses be forwarded to the central repository as required by section 43.503 and shall certify adoption of such policy when applying for any grants administered by the department of public safety.

2. Each county prosecuting attorney and municipal prosecutor shall adopt a policy requiring charge information for all intoxication-related traffic offenses be forwarded to the central repository as required by section 43.503 and shall certify adoption of such policy when applying for any grants administered by the department of public safety.

3. Effective January 1, 2011, the highway patrol shall, based on the data submitted, maintain regular accountability reports of intoxication-related traffic offense arrests, charges, and dispositions.

577.006. INTOXICATION-RELATED TRAFFIC OFFENSES, MUNICIPAL JUDGES TO RECEIVE ADEQUATE INSTRUCTION — WRITTEN POLICY ON TIMELY DISPOSITION OF CASES — REPORT REQUIRED. — 1. Each municipal judge shall receive adequate instruction on the laws related to intoxication-related traffic offenses as defined in section 577.023 including jurisdictional issues related to such offenses, reporting requirements to the highway patrol central repository as set out in section 43.503 and required assessment for offenders under the substance abuse traffic offender program (SATOP). Each municipal judge shall adopt a written policy requiring that municipal court personnel timely report all dispositions of all charges for intoxication-related traffic offenses to the central repository.

2. Each municipal court shall provide a copy of its written policy for reporting dispositions of intoxication-related traffic offenses to the office of state courts administrator and the highway patrol. To assist municipal courts, the office of state courts administrator may create a model policy for the reporting of dispositions of all charges for intoxication-related traffic offenses.

3. Each municipal division of every circuit court in the state of Missouri shall prepare a report every six months. The report shall include, but shall not be limited to, the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed or pending in its municipal court division. The municipal court division shall submit said report to the circuit court en banc. The report shall include the six month period beginning January first and ending June thirtieth and the six month period beginning July first and ending December thirty-first of each year. The report shall be submitted to the circuit court en banc no later than sixty days following the end of the reporting period. The circuit court en banc shall make recommendations or take any action it deems appropriate based on its review of said reports.

577.010. DRIVING WHILE INTOXICATED — SENTENCING RESTRICTIONS, JACKSON COUNTY. — 1. A person commits the crime of "driving while intoxicated" if he operates a motor vehicle while in an intoxicated or drugged condition.

2. Driving while intoxicated is for the first offense, a class B misdemeanor. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two years.

3. Notwithstanding the provisions of subsection 2 of this section, in a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, no person who operated a motor vehicle with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood shall be granted a suspended imposition of sentence unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

4. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section, for such first offense:

(1) If the individual operated the motor vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the motor vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

577.012. DRIVING WITH EXCESSIVE BLOOD ALCOHOL CONTENT — SENTENCING RESTRICTIONS, JACKSON COUNTY. — 1. A person commits the crime of "driving with excessive blood alcohol content" if such person operates a motor vehicle in this state with eight-hundredths of one percent or more by weight of alcohol in such person's blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections 577.020 to 577.041.

3. For the first offense, driving with excessive blood alcohol content is a class B misdemeanor.

4. In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, no person who operated a motor vehicle with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood shall be granted a suspended imposition of sentence unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

5. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 4 of this section, for such first offense:

(1) If the individual operated the motor vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the motor vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

577.023. AGGRAVATED, CHRONIC, PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; or

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal alcohol concentration levels and tampering attempts at least once every hour, regardless of the location of the person who is being monitored, and regularly transmitting the data. Continuous alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of section 217.690, RSMo;

(4) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance;

(5) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo; and

(6) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding.

(1) No prior offender shall be eligible for parole or probation until he or she has served a minimum of [five] **ten** days imprisonment[.]:

(a) Unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; **or**

(b) The offender participates in and successfully completes a program established pursuant to section 478.007 or other court-ordered treatment program, if available.

(2) No persistent offender shall be eligible for parole or probation until he or she has served a minimum of [ten] **thirty** days imprisonment[.]:

(a) Unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court; **or**

(b) The offender participates in and successfully completes a program established pursuant to section 478.007 or other court-ordered treatment program, if available.

(3) No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment.

(4) No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

In addition to any other terms or conditions of probation, the court shall consider, as a condition of probation for any person who pleads guilty to or is found guilty of an intoxication-related traffic offense, requiring the offender to abstain from consuming or using alcohol or any products containing alcohol as demonstrated by continuous alcohol monitoring or by verifiable breath alcohol testing performed a minimum of four times per day as scheduled by the court for such duration as determined by the court, but not less than ninety days. The court may, in addition to imposing any other fine, costs, or assessments provided by law, require the offender to bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilt shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an intoxication-related traffic offense shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence [of convictions] received by a search of the records of the Missouri uniform law enforcement system, **including criminal history records from the central repository or records from the driving while intoxicated tracking system (DWITS) maintained by the Missouri state highway patrol, or the certified driving record maintained by the Missouri department of revenue.** After hearing the evidence, the court shall enter its findings thereon. A plea of guilty or a finding of guilt followed by incarceration, a fine, a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in any intoxication-related traffic offense in a state, county or municipal court or any combination thereof, shall be treated as a prior plea of guilty or finding of guilt for purposes of this section.

577.039. ARREST WITHOUT WARRANT, LAWFUL, WHEN. — An arrest without a warrant by a law enforcement officer, including a uniformed member of the state highway patrol, for a violation of section 577.010 or 577.012 is lawful whenever the arresting officer has reasonable grounds to believe that the person to be arrested has violated the section, whether or not the violation occurred in the presence of the arresting officer [and when such arrest without warrant is made within one and one-half hours after such claimed violation occurred, unless the person to be arrested has left the scene of an accident or has been removed from the scene to receive medical treatment, in which case such arrest without warrant may be made more than one and one-half hours after such violation occurred].

577.041. REFUSAL TO SUBMIT TO CHEMICAL TEST — NOTICE, REPORT OF PEACE OFFICER, CONTENTS — REVOCATION OF LICENSE, HEARING — EVIDENCE, ADMISSIBILITY — REINSTATEMENT OF LICENSES — SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM — ASSIGNMENT RECOMMENDATIONS, JUDICIAL REVIEW — FEES. — 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then [none shall be given and] evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024, 565.060, or 565.082, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which

to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a certified report under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue and shall include the following:

- (1) That the officer has:
 - (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or
 - (b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or
 - (c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;
- (2) That the person refused to submit to a chemical test;
- (3) Whether the officer secured the license to operate a motor vehicle of the person;
- (4) Whether the officer issued a fifteen-day temporary permit;
- (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and
- (6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit **division** or associate [circuit] **division of the court** in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

- (1) Whether or not the person was arrested or stopped;
- (2) Whether or not the officer had:
 - (a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or
 - (b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or
 - (c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of

the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment as described in subdivision [(22)] **(23)** of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010, RSMo, and section 577.001. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state

of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

10. Any person who has had a license to operate a motor vehicle revoked more than once for violation of the provisions of this section shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of license reinstatement. Such ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director as required by this section, the license shall be rerevoked and the person shall be guilty of a class A misdemeanor.

11. The revocation period of any person whose license and driving privilege has been revoked under this section and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked and the person shall be guilty of a class A misdemeanor.

577.054. ALCOHOL-RELATED DRIVING OFFENSES, EXPUNGED FROM RECORDS, WHEN — PROCEDURES, EFFECT — LIMITATIONS — 1. After a period of not less than ten years, an individual who has pleaded guilty or has been convicted for a first alcohol-related driving offense which is a misdemeanor or a county or city ordinance violation and which is not a conviction for driving a commercial motor vehicle while under the influence of alcohol and who since such date has not been convicted of any other alcohol-related driving offense may apply to the court in which he or she pled guilty or was sentenced for an order to expunge from all official records all recordations of his or her arrest, plea, trial or conviction. If the court determines, after hearing, that such person has not been convicted of any **subsequent** alcohol-related driving offense [in the ten years prior to the date of the application for expungement, and], has no other **subsequent** alcohol-related enforcement contacts as defined in section 302.525, RSMo, [during that ten-year period,] **and has no other alcohol-related driving charges or alcohol-related enforcement actions pending at the time of the hearing on the application,** the court shall enter an order of expungement. Upon granting of the order of expungement, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction and as if such event had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever and no such inquiry shall be made for information relating to an expungement under this section. A person shall only be entitled to one expungement pursuant to this section. Nothing contained in this section shall prevent the director from maintaining such records as to ensure that an individual receives only one expungement pursuant to this section for the purpose of informing the proper authorities of the contents of any record maintained pursuant to this section.

2. The provisions of this section shall not apply to any individual who has been issued a commercial driver's license or is required to possess a commercial driver's license issued by this state or any other state.

Approved June 2, 2010

HB 1750 [SS SCS HCS HB 1750]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires certain incumbent local exchange telecommunications companies to reduce their composite intrastate switched exchange access rates annually for a period of three years as specified

AN ACT to amend chapter 392, RSMo, by adding thereto one new section relating to exchange access rates.

SECTION

A. Enacting clause.

392.605. Local exchange telecommunications companies to decrease certain rates for three years — exemption.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 392, RSMo, is amended by adding thereto one new section, to be known as section 392.605, to read as follows:

392.605. LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES TO DECREASE CERTAIN RATES FOR THREE YEARS — EXEMPTION. — 1. For a period of three years, each incumbent local exchange telecommunications company shall decrease its composite intrastate switched exchange access rates annually by six percent of the difference, as determined immediately preceding the first reduction required under this subsection, between its composite interstate switched exchange access rates and its composite intrastate switched exchange access rates, except that the provisions of this subsection shall not apply to small incumbent local exchange telecommunications companies individually serving fewer than twenty-five thousand access lines as of January 1, 2010, and the provisions of subsection 6 of section 392.361 and section 392.370 to the contrary notwithstanding, rural alternative local exchange telecommunications companies as defined in this section. The first six percent reduction shall occur by March 1, 2011, and the two subsequent six percent reductions shall occur by March first of each subsequent year thereafter. Between January fifteenth and January thirtieth of each year following a rate reduction required under this section, any company whose intrastate rates have been impacted by the requirements of this section shall submit a report to the chairperson of the house standing committee selected by the speaker of the house of representatives and the chairperson of the senate standing committee selected by the president pro tem of the senate which report shall describe the company's activities with regard to quality of consumer service, build-out of telecommunications infrastructure, and any other non-proprietary matters requested by the chairpersons of the committees as well as the financial impact of the provisions of this section on the company.

2. For purposes of this section, the term "rural alternative local exchange telecommunications company" shall be defined to include only those alternative local exchange telecommunications companies that, as of December 31, 2009:

(1) Possess a certificate of service authority to provide basic local telecommunications services issued by the commission;

(2) Have tariffs on file with and approved by the commission for the provision of basic local telecommunications services and exchange access services;

(3) Provide basic local telecommunications services and exchange access service to at least sixty percent of their local subscribers over distribution facilities connecting end user customers to the central office which are owned by the alternative local exchange

telecommunications company. For purposes of this subsection, the ownership of distribution facilities connecting end user customers to the central office shall not include facilities that are leased, such as unbundled network elements, or resold from any other person or entity; and

(4) Have more than ninety percent of their total Missouri basic local telecommunications service customers located in counties of the third classification.

3. The exemption under this section for rural alternative local exchange telecommunications companies shall only apply to those exchanges where the rural alternative local exchange telecommunications companies serve existing lines as of December 31, 2009.

Approved June 24, 1010

HB 1764 [SS SCS HCS HB 1764]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Prohibits persons, employers, or health care providers from being compelled to participate in any health care system and allows certain domestic insurance companies to dissolve under certain conditions

AN ACT to repeal section 375.1175, RSMo, and to enact in lieu thereof two new sections relating to insurance, with a referendum clause.

SECTION

- A. Enacting clause.
- 1.330. Health care, no requirement to participate, no penalties — purchase or sale of health insurance in private system not prohibited — definitions.
- 375.1175. Grounds for liquidation — voluntary dissolution and liquidation, conditions.
- B. Referendum clause.
- C. Official ballot title.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 375.1175, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 1.330 and 375.1175, to read as follows:

1.330. HEALTH CARE, NO REQUIREMENT TO PARTICIPATE, NO PENALTIES — PURCHASE OR SALE OF HEALTH INSURANCE IN PRIVATE SYSTEM NOT PROHIBITED — DEFINITIONS. —

1. No law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system.

2. A person or employer may pay directly for lawful health care services and shall not be required by law or rule to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required by law or rule to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

3. Subject to reasonable and necessary rules that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law or rule.

4. This section does not:

(1) Affect which health care services a health care provider or hospital is required to perform or provide;

- (2) Affect which health care services are permitted by law;
 - (3) Prohibit care provided under workers' compensation as provided under state law;
 - (4) Affect laws or regulations in effect as of January 1, 2010;
 - (5) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services.
5. As used in this section, the following terms shall mean:
- (1) "Compel", any penalties or fines;
 - (2) "Direct payment or pay directly", payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service;
 - (3) "Health care system", any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants;
 - (4) "Lawful health care services", any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services; and
 - (5) "Penalties or fines", any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

375.1175. GROUNDS FOR LIQUIDATION — VOLUNTARY DISSOLUTION AND LIQUIDATION, CONDITIONS. — 1. The director may petition the court for an order directing him to liquidate a domestic insurer or an alien insurer domiciled in this state on the basis:

- (1) Of any ground for an order of rehabilitation as specified in section 375.1165, whether or not there has been a prior order directing the rehabilitation of the insurer;
- (2) That the insurer is insolvent;
- (3) That the insurer is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors or the public;
- (4) That the insurer is found to be in such condition after examination that it could not meet the requirements for incorporation and authorization specified in the law under which it was incorporated or is doing business; or
- (5) That the insurer has ceased to transact the business of insurance for a period of one year.

2. Notwithstanding any other provision of this chapter, a domestic insurer organized as a stock insurance company may voluntarily dissolve and liquidate as a corporation under sections 351.462 to 351.482, provided that:

- (1) The director, in his or her sole discretion, approves the articles of dissolution prior to filing such articles with the secretary of state. In determining whether to approve or disapprove the articles of dissolution, the director shall consider, among other factors, whether:
 - (a) The insurer's annual financial statements filed with the director show no written insurance premiums for five years; and
 - (b) The insurer has demonstrated that all policyholder claims have been satisfied or have been transferred to another insurer in a transaction approved by the director; and
 - (c) An examination of the insurer pursuant to sections 374.202 to 374.207 has been completed within the last five years; and

(2) The domestic insurer files with the secretary of state a copy of the director's approval, certified by the director, along with articles of dissolution as provided in section 351.462 or 351.468.

SECTION B. REFERENDUM CLAUSE. — This act is hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on Tuesday next following the first Monday in August, 2010, pursuant to the laws and constitutional provisions of this state for the submission of referendum measures by the general assembly, and this act shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise.

SECTION C. OFFICIAL BALLOT TITLE. — Pursuant to chapter 116, RSMo, and other applicable constitutional provisions and laws of this state allowing the general assembly to adopt ballot language for the submission of this act to the voters of this state, the official ballot title of this act shall be as follows:

"Shall the Missouri Statutes be amended to:

- Deny the government authority to penalize citizens for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful healthcare services?
- Modify laws regarding the liquidation of certain domestic insurance companies?"

Referendum, to be submitted to voters on August 3, 2010

HB 1806 [SS HCS HB 1806]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding county classifications and annexations by certain cities

AN ACT to repeal sections 48.020 and 48.030, RSMo, and to enact in lieu thereof four new sections relating to county classification, with an emergency clause.

SECTION

- A. Enacting clause.
- 48.020. Classification of counties into four classes for purpose of organization and power — classification, how determined — annual increase to assessed valuation, amount.
- 48.030. Change in classification, how, when effective.
- 71.275. Annexation of contiguous land with a research, development, or office park project, procedure.
- 79.025. Annexation of territory prohibited, when (City of Byrnes Mill).
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 48.020 and 48.030, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 48.020, 48.030, 71.275, and 79.025, to read as follows:

48.020. CLASSIFICATION OF COUNTIES INTO FOUR CLASSES FOR PURPOSE OF ORGANIZATION AND POWER—CLASSIFICATION, HOW DETERMINED—ANNUAL INCREASE TO ASSESSED VALUATION, AMOUNT. — **1.** All counties of this state are hereby classified, for the purpose of establishing organization and powers in accordance with the provisions of section 8, article VI, Constitution of Missouri, into four classifications determined as follows:

Classification 1. All counties having an assessed valuation of [six] **nine** hundred million dollars and over shall automatically be in the first classification after that county has maintained such valuation for the time period required by section 48.030; however, any county of the second classification which, on August [13, 1988] **28, 2010**, has had an assessed valuation of at least [four] **six** hundred million dollars for at least one year may, by resolution of the governing body of the county, elect to be classified as a county of the first classification after it has maintained such valuation for the period of time required by the provisions of section 48.030.

Classification 2. All counties having an assessed valuation of [four] **six** hundred [fifty] million dollars and less than the assessed valuation necessary for that county to be in the first classification shall automatically be in the second classification after that county has maintained such valuation for the time period required by section 48.030.

Classification 3. All counties having an assessed valuation of less than the assessed valuation necessary for that county to be in the second classification shall automatically be in the third classification.

Classification 4. All counties which have attained the second classification prior to August 13, 1988, and which would otherwise return to the third classification after August 13, 1988, because of changes in assessed valuation shall remain a county in the second classification and shall operate under the laws of this state applying to the second classification.

2. The required assessed valuation for each classification under subsection 1 of this section shall be increased annually by an amount equal to the percentage change in the annual average of the Consumer Price Index for all urban consumers (CPI-U) or zero, whichever is greater. The state tax commission shall calculate and publish this amount so that it is available to all counties.

48.030. CHANGE IN CLASSIFICATION, HOW, WHEN EFFECTIVE. — 1. [Other than as otherwise provided for in this section, after September 28, 1979,] No county shall move from a lower class to a higher class or from a higher class to a lower class until the assessed valuation of the county is such as to place it in the other class for five successive years **and until the change has become effective as provided for in this section.**

2. No second class county shall become a third class county until the assessed valuation of the county is such as to place it in the third class for at least five successive years.

3. Notwithstanding the provisions of subsection 1 of this section, a county may become a first class county at any time after the assessed valuation of the county is such as to be a first class county and the governing body of the county elects to change classifications. The effective date of such change of classification shall be in accordance with the provisions of this section.

4. Notwithstanding the provisions of subsection 1 of this section, any county of the third classification without a township form of government and with more than thirty-eight thousand nine hundred but fewer than thirty-nine thousand inhabitants may become a second class county at any time after the assessed valuation of the county is such as to be a second class county and the governing body of the county elects to change classifications. The effective date of such change of classification shall be at the beginning of the county fiscal year following the election by the governing body of the county.

5. Except as provided in subsection 4 of this section, the change from one classification to another shall become effective at the beginning of the county fiscal year following the next general election after the certification by the state equalizing agency for the required number of successive years that the county possesses an assessed valuation placing it in another class. If a general election is held between the date of the certification and the end of the current fiscal year, the change of classification shall not become effective until the beginning of the county fiscal year following the next succeeding general election.

71.275. ANNEXATION OF CONTIGUOUS LAND WITH A RESEARCH, DEVELOPMENT, OR OFFICE PARK PROJECT, PROCEDURE. — **Notwithstanding any other provision of this**

chapter to the contrary, if the governing body of any municipality finds it in the public interest that a parcel of land within a research, development, or office park project established under section 172.273, that is contiguous and compact to the existing corporate limits of the municipality and located in an unincorporated area of the county, should be located in the municipality, such municipality may annex such parcel, provided that the municipality obtains written consent of all the property owners located within the unincorporated area of such parcel.

79.025. ANNEXATION OF TERRITORY PROHIBITED, WHEN (CITY OF BYRNES MILL). — No city of the fourth classification with more than two thousand three hundred but fewer than two thousand four hundred inhabitants and located in any county with a charter form of government and with more than one hundred ninety-eight thousand but fewer than one hundred ninety-nine thousand two hundred inhabitants shall annex any territory adjacent to the city if such adjacent territory proposed for annexation does not contain any registered voters unless the city has obtained the written consent of all the owners of real property within such adjacent territory.

SECTION B. EMERGENCY CLAUSE. — To ensure the continuation of efficient and proper administration of county government, the repeal and reenactment of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section A of this act shall be in full force and effect upon its passage and approval.

Approved May 25, 2010

HB 1840 [HCS HB 1840]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the membership of the Rice Advisory Council and creates the Missouri Rice Certification Fund

AN ACT to repeal section 265.525, RSMo, and to enact in lieu thereof one new section relating to the Missouri rice certification act.

SECTION

A. Enacting clause.

265.525. Citation of law — definitions — council created, members, terms, meetings, powers and duties — department authority — fees, rulemaking authority — violations, penalty — fund created, use of moneys.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 265.525, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 265.525, to read as follows:

265.525. CITATION OF LAW — DEFINITIONS — COUNCIL CREATED, MEMBERS, TERMS, MEETINGS, POWERS AND DUTIES — DEPARTMENT AUTHORITY — FEES, RULEMAKING AUTHORITY — VIOLATIONS, PENALTY — FUND CREATED, USE OF MONEYS. — 1. This section shall be known as the "Missouri Rice Certification Act".

2. As used in this section, the following terms shall mean:

(1) "Characteristics of commercial impact", characteristics determined by the rice advisory council under subsection 7 of this section that may adversely affect the marketability of rice in the event of commingling with other rice and may include, but are not limited to, those characteristics that cannot be visually identified without the aid of specialized equipment or testing, those characteristics that create a significant economic impact in their removal from commingled rice, and those characteristics whose removal from commingled rice is infeasible;

(2) "Council", the rice advisory council established in this section;

(3) "Department", the department of agriculture;

(4) "Director", the director of the department of agriculture;

(5) "End user", any company or corporation, **not to include a producer**, that [uses rice as a major ingredient in industrial] **is a major industrial user of rice in** food processing;

(6) "Handler", any person, **not to include a producer**, engaged in this state in the business of **buying, marketing, drying, milling, or warehousing rice**[, including persons engaged in the drying, milling, or storing of rice];

(7) "Person", any individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or any other entity doing business in Missouri;

(8) "Producer", any person who produces, or causes to be produced, rice;

(9) "Rice", all rough or paddy rice or brown rice (*Oryza* species) produced in or shipped in Missouri, including rice produced for seed. It does not include wild rice (*Zizania aquatic* or *Zizania palustris*).

3. Except as provided by rules promulgated by the department, it shall be unlawful for any person to introduce, sell, plant, produce, harvest, transport, store, process, or otherwise handle rice identified as having characteristics of commercial impact.

4. There is hereby created within the department of agriculture the "Rice Advisory Council". The council shall be made up of the following ten members:

(1) The director, or his or her designee;

(2) Three members appointed by the director to include:

(a) An individual [representing handlers] **employed as or by a handler** in Missouri;

(b) An individual [representing end users] **employed as or by an end user**;

(c) An individual representing the biotechnology industry who is familiar with rice genetics;

(3) Six members appointed by the director as recommended by the Missouri Rice Research and Merchandising Council to include:

(a) Two producers, neither of whom shall be employed by or serve on the board of any rice mill or rice merchandiser;

(b) Two scientists employed by institutes of higher education in Missouri;

(c) A representative of rice mills operating in Missouri; and

(d) A representative of rice seed dealers.

5. Members of the council shall serve terms of three years in length except that the director shall be a permanent member of the council and the director shall stagger the terms of the initial appointments so that three members serve terms of two years, three members serve terms of three years, and three members serve terms of four years. There is no limit to the number of terms a member may serve. Vacancies shall be filled in the same manner of representation as the original appointments.

6. The rice advisory council shall meet no less than twice annually as determined by the chairperson of the council, who shall be elected by the council at its first meeting and once every calendar year thereafter. Members of the council shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

7. The powers and duties of the rice advisory council shall include, but not be limited to, all of the following:

(1) Identifying rice varieties that have characteristics of commercial impact;

(2) Reviewing the efficacy of terms and conditions of identity preservation programs imposed on the planting, producing, harvesting, transporting, drying, storing, testing, or otherwise

handling of rice identified using the most current industry standards and generally accepted scientific principles;

(3) Reviewing each rice variety identified as having characteristics of commercial impact not less often than every two years, or upon receipt of a petition from the purveyor of the rice;

(4) Making recommendations to the director on all matters pertaining to this section, including, but not limited to, enforcement of this section.

8. The department shall have the power to:

(1) Maintain the integrity and prevent the contamination of rice which has not been identified as having characteristics of commercial impact;

(2) Prevent the introduction of disease, weeds, or other pests that would adversely affect rice which has not been identified as having characteristics of commercial impact;

(3) Require that persons selling, offering for sale, or otherwise distributing seed for the production of rice identified as having characteristics of commercial impact, or that persons bringing rice identified as having characteristics of commercial impact into the state for processing, notify the department of the location of planting sites and the dates and procedures for planting, producing, harvesting, transporting, drying, storing, testing, or otherwise handling of rice identified as having characteristics of commercial impact;

(4) Require that persons receiving rice having been identified as having characteristics of commercial impact produced outside the state for processing notify the department of the location of the receipt and the procedures for processing, transporting, drying, storing, testing, or otherwise handling the rice to prevent commercial impact to other rice and the spread of weeds, disease, or other pests;

(5) Enforce restrictions and prohibitions imposed by the department on the selling, planting, producing, harvesting, transporting, drying, storing, testing, processing, or otherwise handling of rice identified as having characteristics of commercial impact; and

(6) Investigate alleged violations of this section, issue notices of violation, provide for an appeals process for persons aggrieved by the provisions of this section, and impose penalties for violation of this section.

9. The department may establish and collect reasonable fees for any sampling and testing of rice that the department determines is necessary to implement the provisions of this section. Any such fees shall be reviewed by the rice advisory council.

10. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

11. The department shall regularly report to the rice advisory council any findings of rice varieties that could potentially have characteristics of commercial impact.

12. If the rice advisory council determines that any rice variety with characteristics of commercial impact is documented as causing unreasonable adverse effects on the environment or public health, the council may issue recommendations to the department. Within sixty days of receiving any such recommendations from the council, the department shall hold a public hearing for the purpose of determining the nature and extent of commercial impact. Within thirty days of holding any such public hearing, the department shall issue a detailed opinion in response to the council recommendations.

13. The penalty for violating a provision of this section shall be no less than ten thousand dollars nor more than one hundred thousand dollars per day per violation.

14. If the department determines a person has violated any provision of this section, the department shall provide written notice to such person informing the person of the violation. The

notice shall inform the person of the right to request an appeal. Nothing in this section shall prevent a person from seeking judicial relief in a court of competent jurisdiction.

15. [The provisions of this section shall become effective one hundred eighty days from August 28, 2007.] (1) **There is hereby created in the state treasury the "Missouri Rice Certification Fund", which shall consist of fees collected under this section. The fund shall be administered by the department of agriculture and all moneys in the fund shall be distributed by the department of agriculture in accordance with this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180.**

(2) **Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.**

(3) **The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.**

16. The provisions of this section shall not be subject to the provisions of sections 610.010 to 610.200, RSMo.

Approved June 18, 2010

HB 1848 [SS HCS HB 1848]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Joint Committee on Urban Farming to study and make recommendations regarding the impact of urban farm cooperatives, vertical farming, and sustainable living communities in Missouri

AN ACT to amend chapter 21, RSMo, by adding thereto one new section relating to the study of urban farming.

SECTION

A. Enacting clause.

21.801. Committee created, members, meetings — report, content — subcommittee created — expiration.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 21, RSMo, is amended by adding thereto one new section, to be known as section 21.801, to read as follows:

21.801. COMMITTEE CREATED, MEMBERS, MEETINGS — REPORT, CONTENT — SUBCOMMITTEE CREATED — EXPIRATION. — 1. **There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Urban Farming" for the period between the second regular session of the ninety-fifth general assembly and first regular session of the ninety-sixth general assembly.**

2. **The joint committee shall be composed of ten members. Five members shall be from the senate, with three members appointed by the president pro tem of the senate and two members appointed by the minority leader of the senate. Five members shall be from the house of representatives, with three members appointed by the speaker of the house of representatives and two members appointed by the minority leader of the house of representatives. All members of the Missouri general assembly not appointed in this**

subsection may be nonvoting, ex officio members of the joint committee. A majority of the appointed members of the joint committee shall constitute a quorum.

3. The joint committee shall meet within thirty days after it becomes effective and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives. The joint committee may meet at locations other than Jefferson City when the committee deems it necessary.

4. The committee shall prepare a final report together with its recommendations for any legislative action deemed necessary for submission to the speaker of the house of representatives, president pro tem of the senate, and the governor by December 31, 2010. The report shall study and make recommendations regarding the impact of urban farm cooperatives, vertical farming, and sustainable living communities in this state and shall examine the following:

(1) Trends in urban farming, including vertical farming, urban farm cooperatives, and sustainable living communities;

(2) Existing services, resources, and capacity for such urban farming;

(3) The impact on communities and populations affected; and

(4) Any needed state legislation, policies, or regulations.

5. The committee shall hold a minimum of one meeting at three urban regions in the state of Missouri to seek public input. The committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the committee considers advisable to carry out the provisions of this section.

6. The joint committee may solicit input and information necessary to fulfill its obligations from the general public, any state department, state agency, political subdivision of this state, or anyone else it deems advisable.

7. (1) The joint committee shall establish a subcommittee to be known as the "Urban Farming Advisory Subcommittee" to study, analyze, and provide background information, recommendations, and findings in preparation of each of the public hearings called by the joint committee. The subcommittee may also review draft recommendations of the joint committee, if requested. The subcommittee will meet as often as necessary to fulfill the requirements and time frames set by the joint committee.

(2) The subcommittee shall consist of twelve members, as follows:

(a) Four members shall include the directors of the following departments, or their designees:

a. Agriculture, who shall serve as chair of the subcommittee;

b. Economic development;

c. Health and senior services; and

d. Natural resources; and

(b) The chair shall select eight additional members, subject to approval by a majority of the joint committee, who shall have experience in or represent organizations associated with at least one of the following areas:

a. Sustainable energy;

b. Farm policy;

c. Urban botanical gardening;

d. Sustainable agriculture;

e. Urban farming or community gardening;

f. Vertical farming;

g. Agriculture policy or advocacy; and

h. Urban development.

8. Members of the committee and subcommittee shall serve without compensation but may be reimbursed for necessary expenses pertaining to the duties of the committee.

9. The staffs of senate research, the joint committee on legislative research, and house research may provide such legal, research, clerical, technical, and bill drafting services as the joint committee may require in the performance of its duties.

10. Any actual and necessary expenses of the joint committee, its members, and any staff assigned to the joint committee incurred by the joint committee shall be paid by the joint contingent fund.

11. This provisions of this section shall expire on January 1, 2011.

Approved July 12, 2010

HB 1858 [SCS HCS HB 1858]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Transfers the administrative responsibility for the Minority Teaching Scholarship and the Minority and Underrepresented Environmental Literacy Program to the Department of Higher Education

AN ACT to repeal sections 161.415 and 640.240, RSMo, and to enact in lieu thereof two new sections relating to scholarships to be administered by the department of higher education.

SECTION

- A. Enacting clause.
- 161.415. Minority teaching scholarships — amount — qualifications — matching funds — renewability.
- 173.240. Program established — fund created — purpose — administration — rulemaking authority — advisory committee created, members, duties.
- 640.240. Minority and underrepresented environmental literacy program established — recruitment and retention scholarship fund created — purpose — administration — rules authorized — minority environmental literacy advisory committee created, members, duties.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 161.415 and 640.240, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 161.415 and 173.240, to read as follows:

161.415. MINORITY TEACHING SCHOLARSHIPS — AMOUNT — QUALIFICATIONS — MATCHING FUNDS — RENEWABILITY. — 1. Within the limits of amounts appropriated therefor, the department of [elementary and secondary] **higher** education shall make available up to one hundred one-year, renewable scholarships in an amount of two thousand dollars to minority students for the purpose of encouraging minority students to enter teaching. Such scholarships shall be available to minority high school graduates and college students who are residents of Missouri, and who enter and make a commitment to pursue a teacher education program approved by the department of elementary and secondary education and offered by a four-year college or university located in Missouri, or who after the completion of their baccalaureate degree enter teacher education and make a commitment to teach science or mathematics, and who have:

- (1) Achieved scores on an accepted standardized test of academic ability, including, but not limited to, the SAT, ACT, SCAT, which place them at or above the seventy-fifth percentile; and
 - (2) A high school rank at or above the seventy-fifth percentile.
-

2. If the number of applicants exceeds the number of scholarships or revenues available, the department of [elementary and secondary] **higher** education may consider the financial needs of the applicant.

3. Any college or university located in Missouri which offers a teacher education program approved by the department of elementary and secondary education, and wishes to have the scholarships provided pursuant to this section made available to eligible applicants for admittance to such college or university, must provide matching funds to match one dollar for every two dollars made available by the state pursuant to this section for students attending the college or university. Such matching funds shall not be taken from money made available to the college or university from state funds. The total scholarship available to any one student from state and from college and university sources pursuant to such match program shall be three thousand dollars per year.

4. A recipient shall be eligible for a renewed scholarship for a maximum of three additional years. Eligibility for renewed scholarships shall be based on criteria established by the colleges of education and the department of [elementary and secondary] **higher** education.

5. As used in this section the term "minority" includes Asian Americans, Hispanic Americans, Native Americans and African Americans.

6. The scholarships provided in subsection 1 of this section shall be available to otherwise eligible students who are currently enrolled in a community college and make a commitment to pursue a teacher education program approved by the department of elementary and secondary education and offered by a four-year college or university located in Missouri.

173.240. PROGRAM ESTABLISHED — FUND CREATED — PURPOSE — ADMINISTRATION — RULEMAKING AUTHORITY — ADVISORY COMMITTEE CREATED, MEMBERS, DUTIES. —

1. There is hereby established within the department of higher education a "Minority and Underrepresented Environmental Literacy Program". The department of higher education, hereafter referred to as the department, may award scholarships to minority and underrepresented students to pursue environmentally related courses of study. The scholarships shall be administered by the department recruitment and retention program under the supervision of the minority environmental literacy advisory committee established under this section. Those ethnic groups which are most severely underrepresented, as determined by data gathered and maintained by the National Academy of Sciences, shall receive priority in annual selection.

2. For the purpose of increasing the number of minority and underrepresented students, as determined by the National Academy of Sciences, who are enrolled in environmentally related courses of study, there is hereby created a "Recruitment and Retention Scholarship Fund". Any unexpended balance in the recruitment and retention scholarship fund shall not be subject to biennial transfer under the provisions of section 33.080. All interest earned on funds in the recruitment and retention scholarship fund shall accrue to the fund.

3. The general assembly may appropriate funds to the department for the purpose of funding scholarships as authorized by this section. Such funds shall be from general revenue, special fees administered by the department, federal funding sources, gifts, or donations, provided that such funds may be used for this purpose. All sums received for this purpose shall be placed in the state treasury and credited to the recruitment and retention scholarship fund.

4. The department shall accept, receive and administer grants or other funds, gifts, or donations from the public and individuals, including the federal government, for the purpose of funding scholarships under this section. Such funds shall be deposited in the recruitment and retention scholarship fund.

5. The department shall promulgate rules to administer the scholarship program, which shall include qualifications, application forms, annual filing deadlines, and

scholarship amounts. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

6. The scholarship program shall be directed toward students in the following areas of study:

(1) Engineering students pursuing an environmental course of study through undergraduate and graduate degrees in civil, chemical, mechanical, environmental, or biological engineering;

(2) Environmental sciences students pursuing undergraduate and graduate degrees in geology, biology, wildlife management, planning, natural resources, or a closely related course of study;

(3) Chemistry students pursuing undergraduate and graduate degrees in the field of environmental chemistry; and

(4) Law enforcement students pursuing undergraduate and graduate degrees in environmental law enforcement.

7. There is hereby created a "Minority Environmental Literacy Advisory Committee", hereafter referred to as the committee, to be comprised of:

(1) The commissioner of higher education or the commissioner's designee, who will serve as chairperson of the committee;

(2) Three representatives of universities and colleges. The universities and colleges shall be selected by the department, with the approval of the director of the department of natural resources. The university and college representatives shall each be appointed by the affirmative action office of the respective institution;

(3) The director of the department of natural resources or the director's designee;

(4) Five at-large members appointed by the governor, with the advice and consent of the senate, who shall be high school teachers and college professors and who shall be selected to represent the various regions of the state;

(5) The state affirmative action officer.

8. The committee shall meet at least annually, at a time and place to be determined by the chairperson, to select students to receive scholarships from applications filed with the department retention and recruitment program. The members appointed by the governor shall be reimbursed for their actual and necessary expenses.

9. Colleges and universities described in this section shall include public community colleges.

[640.240. MINORITY AND UNDERREPRESENTED ENVIRONMENTAL LITERACY PROGRAM ESTABLISHED — RECRUITMENT AND RETENTION SCHOLARSHIP FUND CREATED — PURPOSE — ADMINISTRATION — RULES AUTHORIZED — MINORITY ENVIRONMENTAL LITERACY ADVISORY COMMITTEE CREATED, MEMBERS, DUTIES. — 1. There is hereby established within the division of environmental quality a "Minority and Underrepresented Environmental Literacy Program". The department of natural resources, hereafter referred to as the department, may award scholarships to minority and underrepresented students to pursue environmentally related courses of study. The scholarships shall be administered by the division of environmental quality recruitment and retention program under the supervision of the minority environmental literacy advisory committee established under this section. Those ethnic groups which are most severely underrepresented, as determined by data gathered and maintained by the National Academy of Sciences, shall receive priority in annual selection.

2. For the purpose of increasing the number of minority and underrepresented students, as determined by the National Academy of Sciences, who are enrolled in environmentally related courses of study, there is hereby created a "Recruitment and Retention Scholarship Fund". Any unexpended balance in the recruitment and retention scholarship fund shall not be subject to biennial transfer pursuant to the provisions of section 33.080, RSMo. All interest earned on funds in the recruitment and retention scholarship fund shall accrue to the fund.

3. The general assembly may appropriate funds to the department for the purpose of funding scholarships as authorized by this section. Such funds shall be from general revenue, special fees administered by the department, federal funding sources, gifts or donations, provided that such funds may be used for this purpose. All sums received for this purpose shall be placed in the state treasury and credited to the recruitment and retention scholarship fund.

4. The department shall accept, receive and administer grants or other funds, gifts or donations from the public and individuals, including the federal government, for the purpose of funding scholarships under this section. Such funds shall be deposited in the recruitment and retention scholarship fund.

5. The department shall promulgate rules to administer the scholarship program, which shall include qualifications, application forms, annual filing deadlines, and scholarship amounts.

6. The scholarship program shall be directed toward students in the following areas of study:

(1) Engineering students pursuing undergraduate and graduate degrees in civil, chemical, mechanical, or agricultural engineering;

(2) Environmental sciences students pursuing undergraduate and graduate degrees in geology, biology, wildlife management, planning, natural resources, or a closely related course of study;

(3) Chemistry students pursuing undergraduate and graduate degrees in the field of environmental chemistry; and

(4) Law enforcement students pursuing undergraduate and graduate degrees in environmental law enforcement.

7. There is hereby created a "Minority Environmental Literacy Advisory Committee", hereafter referred to as the committee, to be comprised of:

(1) The director of the department of natural resources or the director's designee, who will serve as chairperson of the committee;

(2) Three representatives of universities and colleges. The university and college representatives shall each be appointed by the affirmative action office of the respective institution;

(3) The commissioner of higher education or the commissioner's designee;

(4) Five at-large members appointed by the governor, with the advice and consent of the senate, who shall be high school teachers and college professors and who shall be selected to represent the various regions of the state;

(5) The state affirmative action officer.

8. The committee shall meet at least annually, at a time and place to be determined by the chairperson, to select students to receive scholarships from applications filed with the division of environmental quality retention and recruitment program. The members appointed by the governor shall be reimbursed for their actual and necessary expenses.

9. Colleges and universities described in this section shall include public community colleges.]

Approved June 18, 2010

HB 1868 [CCS SCS HB 1868]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding keys to the Capitol dome, state agencies, and MO HealthNet claims and establishes the Joint Committee on the Reduction and Reorganization of Programs within State Government

AN ACT to repeal sections 36.031, 36.050, 36.060, 36.150, 36.280, 36.370, 36.380, 36.390, 36.400, 37.320, 43.040, 43.050, 58.445, 105.055, 109.250, 208.215, 301.716, 306.010, 306.161, 306.163, 306.165, 306.167, 306.168, 306.185, 306.227, 306.228, 306.229, 306.230, 306.232, 542.261, 544.157, 577.090, 621.015, 630.060, and 650.005, RSMo, and to enact in lieu thereof thirty-seven new sections relating to duties of agencies and officials operating within the executive branch, with penalty provisions.

SECTION

- A. Enacting clause.
 - 8.016. State capitol dome key, members of general assembly to be provided with — training required.
 - 21.910. Committee created, members, duties — report — expiration.
 - 23.156. Oath required, oversight division employees — violation, penalty.
 - 34.047. Information technology purchases, on-line bidding/vendor registration system to be used for notice, when.
 - 36.031. Applicability of merit system — director of personnel to notify affected agencies.
 - 36.050. Advisory board, members, appointment, terms, removal, compensation.
 - 36.060. Duties of board — rules generally, promulgation, procedure.
 - 36.150. Appointments and promotions, how made — no discrimination permitted — political activities prohibited — violations, cause for dismissal.
 - 36.280. Transfer of employees — noncompetitive examination required when.
 - 36.370. Suspension of employees — exception for national guard members, when — appeal from suspension authorized.
 - 36.380. Dismissal of employee — notice, how given — approval for reemployment, when.
 - 36.390. Right of appeal, procedure, regulation — nonmerit agencies may adopt — dismissal appeal procedure — nonmerit agencies, not adopting, to establish similar system, exceptions.
 - 36.400. Powers of commission to administer oaths and issue subpoenas.
 - 37.320. Director, appointment, qualifications — staff to be employed under system.
 - 37.900. Statewide elected officials may request determination of lowest and best bidder, procedure.
 - 43.040. Lieutenant colonel and majors — appointment, qualifications.
 - 43.050. Officers and other personnel, numbers authorized — exceptions — enforcement of gaming activities, when — discrimination prohibited.
 - 43.390. Division created — director appointment — powers of officers — salaries, expenses and compensation.
 - 58.445. Deaths due to motor vehicle or motorized watercraft accidents — report required when — tests for alcohol and drugs, when.
 - 104.810. Water patrol employees, membership options.
 - 105.055. State employee reporting mismanagement or violations of agencies, discipline of employee prohibited — appeal by employee from disciplinary actions, procedure — disciplinary action defined — violation, penalties — civil action, when.
 - 109.250. State records commission established — members — duties — meetings.
 - 208.215. Payer of last resort — liability for debt due the state, ceiling — rights of department, when, procedure, exception — report of injuries required, form, recovery of funds — recovery of medical assistance paid, when — court may adjudicate rights of parties, when.
 - 301.716. Special enforcement procedures.
 - 306.010. Definitions.
 - 306.165. Water patrol officer, powers, duties and jurisdiction of.
 - 306.167. Powers of peace officer when working in cooperation with other law enforcement agency.
 - 306.168. Search warrants, water patrol division may request application for and serve, when.
 - 306.185. Water patrol division fund created, use of proceeds.
 - 542.261. Peace officer defined.
 - 544.157. Law enforcement officers, conservation agents, capitol police, and park rangers, arrest powers — fresh pursuit defined — policy of agency electing to institute vehicular pursuits.
 - 577.090. Powers of law enforcement officers — limited powers of conservation agents.
 - 621.015. Administrative hearing commission, number of commissioners — qualifications, appointment, terms, compensation.
-

- 621.075. Merit employees, right of appeal, procedure.
- 630.060. Cooperation with other groups.
- 650.005. Department of public safety created — director, appointment — department's duties — rules, procedure.
 - 1. General Services Administration vendors, purchase of supplies authorized.
- 306.161. Water patrol division authorized to employ personnel.
- 306.163. Commissioner of water patrol, appointment, oath, duties — granted powers of a peace officer, when — lieutenant colonel to assume the duties of the commissioner, when.
- 306.227. Minimum age for water patrolmen and radio personnel — disqualifying criteria for patrolmen and the commissioner.
- 306.228. Authorized personnel appointments by the commissioner — national emergency, personnel called in to military service — discrimination prohibited.
- 306.229. Salary increases, commissioner may prescribe policies for — submission of a salary schedule, contents — military services, effect of.
- 306.230. Rules authorized — promotion of patrolmen, general order of commissioner to establish circumstances for.
- 306.232. Disciplinary action after probation permitted, when — complaint procedures.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 36.031, 36.050, 36.060, 36.150, 36.280, 36.370, 36.380, 36.390, 36.400, 37.320, 43.040, 43.050, 58.445, 105.055, 109.250, 208.215, 301.716, 306.010, 306.161, 306.163, 306.165, 306.167, 306.168, 306.185, 306.227, 306.228, 306.229, 306.230, 306.232, 542.261, 544.157, 577.090, 621.015, 630.060, and 650.005, RSMo, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 8.016, 21.910, 23.156, 34.047, 36.031, 36.050, 36.060, 36.150, 36.280, 36.370, 36.380, 36.390, 36.400, 37.320, 37.900, 43.040, 43.050, 43.390, 58.445, 104.810, 105.055, 109.250, 208.215, 301.716, 306.010, 306.165, 306.167, 306.168, 306.185, 542.261, 544.157, 577.090, 621.015, 621.075, 630.060, 650.005, and 1, to read as follows:

8.016. STATE CAPITOL DOME KEY, MEMBERS OF GENERAL ASSEMBLY TO BE PROVIDED WITH—TRAINING REQUIRED. — **1.** The commissioner of the office of administration shall provide each member of the senate and each member of the house of representatives with a key that accesses the dome of the state capitol.

2. The president pro tem of the senate and the speaker of the house of representatives shall be responsible for providing a training program for the members and staff of the general assembly regarding access to secured areas of the capitol building. They may consult with the office of administration and department of public safety when developing such program.

21.910. COMMITTEE CREATED, MEMBERS, DUTIES — REPORT — EXPIRATION. — **1.** There is hereby created the "Joint Committee on the Reduction and Reorganization of Programs within State Government". The committee shall be composed of thirteen members as follows:

(1) Three majority party members and two minority party members of the senate, to be appointed by the president pro tem of the senate;

(2) Three majority party members and two minority party members of the house of representatives, to be appointed by the speaker of the house of representatives;

(3) The commissioner of the office of administration, or his or her designee;

(4) A representative of the governor's office; and

(5) A supreme court judge, or his or her designee, as selected by the Missouri supreme court.

2. The committee shall study programs within every department that should be eliminated, reduced, or combined with another program or programs. As used in this section, the term "program" shall have the same meaning as in section 23.253.

3. In order to assist the committee with its responsibilities under this section, each department shall comply with any request for information made by the committee with regard to any programs administered by such department.

4. The members of the committee shall elect a chairperson and vice chairperson.

5. The committee shall submit a report to the general assembly by December 31, 2010, and such report shall contain any recommendations of the committee for eliminating, reducing, or combining any program with another program or programs in the same or a different department.

6. The provisions of this section shall expire on January 1, 2011.

23.156. OATH REQUIRED, OVERSIGHT DIVISION EMPLOYEES — VIOLATION, PENALTY. — 1. Every employee of the oversight division of the joint committee on legislative research shall, before entering upon his or her duties, take and file in the offices of the secretary of the senate and the chief clerk of the house of representatives an oath:

(1) To support the constitution of the state, to faithfully demean himself or herself in office;

(2) To not disclose to any unauthorized person any information furnished by any state department, state agency, political subdivision, or instrumentality of the state; and

(3) To not accept as presents or emoluments any pay, directly or indirectly, for the discharge of any act in the line of his or her duty other than the remuneration fixed and accorded to the employee by law.

2. For any violation of his or her oath of office or of any duty imposed upon him or her by this section, any employee shall be guilty of a class A misdemeanor.

34.047. INFORMATION TECHNOLOGY PURCHASES, ON-LINE BIDDING/VENDOR REGISTRATION SYSTEM TO BE USED FOR NOTICE, WHEN. — Notwithstanding any provision in section 34.040, section 34.100, or any other law to the contrary, departments shall have the authority to purchase products and services related to information technology when the estimated expenditure of such purchase shall not exceed seventy-five thousand dollars, the length of any contract or agreement does not exceed twelve months, the department complies with the informal methods of procurement established in section 34.040, and 1 CSR 40-1.050(1) for expenditures of less than twenty-five thousand dollars, and the department posts notice of such proposed purchase on the online bidding/vendor registration system maintained by the office of administration. For the purposes of this section, "information technology" shall mean any computer or electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of information, including audio, graphic, and text.

36.031. APPLICABILITY OF MERIT SYSTEM — DIRECTOR OF PERSONNEL TO NOTIFY AFFECTED AGENCIES. — Any provision of law to the contrary notwithstanding, except for the elective offices, institutions of higher learning, the department of transportation, the department of conservation, those positions in the Missouri state highway patrol the compensation of which is established by subdivision (2) of subsection 2 of section 43.030, RSMo, and section 43.080, RSMo, [those positions in the Missouri state water patrol the compensation of which is established by section 306.229, RSMo,] those positions in the division of finance and the division of credit unions compensated through a dedicated fund obtained from assessments and license fees under sections 361.170 and 370.107, RSMo, and those positions for which the constitution specifically provides the method of selection, classification, or compensation, and the positions specified in subsection 1 of section 36.030, but including attorneys, those departments, agencies and positions of the executive branch of state government which have not been subject to these provisions of the state personnel law shall be subject to the provisions of sections 36.100, 36.110,

36.120 and 36.130, and the regulations adopted pursuant to sections 36.100, 36.110, 36.120 and 36.130 which relate to the preparation, adoption and maintenance of a position classification plan, the establishment and allocation of positions within the classification plan and the use of appropriate class titles in official records, vouchers, payrolls and communications. Any provision of law which confers upon any official or agency subject to the provisions of this section the authority to appoint, classify or establish compensation for employees shall mean the exercise of such authority subject to the provisions of this section. This section shall not extend coverage of any section of this chapter, except those specifically named in this section, to any agency or employee. In accordance with sections 36.100, 36.110, 36.120 and 36.130, and after consultation with appointing authorities, the director of the division of personnel shall conduct such job studies and job reviews and establish such additional new and revised job classes as the director finds necessary for appropriate classification of the positions involved. Such classifications and the allocation of positions to classes shall be maintained on a current basis by the division of personnel. The director of the division of personnel shall, at the same time, notify all affected agencies of the appropriate assignment of each job classification to one of the salary ranges within the pay plan then applicable to merit system agencies. The affected agencies and employees in the classifications set pursuant to this section shall be subject to the pay plan and rates of compensation established and administered in accordance with the provisions of this section, and the regulations adopted pursuant to this section, on the same basis as for merit agency employees. In addition, any elected official, institution of higher learning, the department of transportation, the department of conservation, the general assembly, or any judge who is the chief administrative officer of the judicial branch of state government may request the division of personnel to study salaries within the requestor's office, department or branch of state government for classification purposes.

36.050. ADVISORY BOARD, MEMBERS, APPOINTMENT, TERMS, REMOVAL, COMPENSATION. — 1. The personnel advisory board and its functions, duties and powers prescribed in this chapter is transferred by type III transfer to the office of administration.

2. The personnel advisory board shall consist of seven members. Four members of the board shall be public members, citizens of the state who are not state employees or officials, of good character and reputation, who are known to be in sympathy with the application of merit principles to public employment. Two members shall be employees of state agencies covered by section 36.030 or section 36.031, one a member of executive management, and one a nonmanagement employee. [Members who are employees shall not participate in disciplinary appeal decisions from their agencies.] The state equal employment opportunity officer shall be a member of the board. No member of the board, during the member's term of office, or for at least one year prior thereto, shall be a member of any local, state or national committee of a political party or an officer or member of a committee in any partisan political club or organization, or hold, or be a candidate for, a partisan public office. An employee member who leaves state employment or otherwise fails to further qualify for the appointment shall vacate the position.

3. The members of the board shall be appointed by the governor by and with the advice and consent of the senate. The three current members of the board serving terms which expire July 31, 1998, July 31, 2000, and July 31, 2002, shall continue to serve for the terms for which they were previously appointed. One new public member shall be appointed for a term ending July 31, 1998, one employee member shall be appointed for a term ending July 31, 2000, and one employee member shall be appointed for a term ending July 31, 2002. Thereafter, appointments of all members shall be for terms of six years. Any vacancy shall be filled by an appointment for the unexpired term. Each member of the board shall hold office until such member's successor is appointed and qualified.

4. A member of the board is removable by the governor only for just cause, after being given a written notice setting forth in substantial detail the charges against the member and an

opportunity to be heard publicly on the charges before the governor. A copy of the charges and a transcript of the record of the hearing shall be filed with the secretary of state.

5. Each public member of the board shall be paid an amount for each day devoted to the work of the board which shall be determined by the commissioner of administration and filed with the reorganization plan of the office of administration; provided, however, that such amount shall not exceed that paid to members of boards and commissions with comparable responsibilities. All board members are entitled to reimbursement for necessary travel and other expenses pertaining to the duties of the board. Duties performed for the board by any employee member of the board shall be considered duties in connection with the appointment of the individual, and such employee member shall suffer no loss of regular compensation by reason of performance of such duties.

6. The board shall elect from among its membership a chairman and vice chairman, who shall act as chairman in the chairman's absence. It shall meet at the times and places specified by call of the chairman, the governor, or the director. At least one meeting shall be held every three months. All regular meetings are open to the public. Notice of each meeting shall be given in writing to each member by the director. Two members shall constitute a quorum until January 1, 1997, thereafter, four members shall constitute a quorum for the transaction of official business.

7. To assist in the performance of its duties the board may employ staff from funds appropriated for this purpose; provided, however, that this provision shall not be interpreted to limit the ability of the personnel director to provide assistance to the board.

36.060. DUTIES OF BOARD — RULES GENERALLY, PROMULGATION, PROCEDURE. — 1. In addition to the duties imposed upon it elsewhere in this chapter, it shall be the duty of the board:

(1) [To conduct hearings and render decisions on appeals as provided in this act;
(2)] To make any investigation which it may consider desirable concerning the administration of personnel subject to this law;

[(3)] (2) To hold regular meetings with appointing authorities to propose methods of resolving general personnel problems;

[(4)] (3) To make annual reports, and such special reports as it considers desirable, to the governor and the general assembly regarding personnel administration in the state service and recommendations there. These special reports shall evaluate the effectiveness of the personnel division and the appointing authority in their operations under this law;

[(5)] (4) To make such suggestions and recommendations to the governor and the director relating to the state's employment policies as will promote morale, efficiency and uniformity in compensation of the various employees in the state service;

[(6)] (5) To promulgate rules and regulations to ensure that no applicant or employee is discriminated against on the basis of race, creed, color, religion, national origin, sex, ancestry or handicap.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

36.150. APPOINTMENTS AND PROMOTIONS, HOW MADE — NO DISCRIMINATION PERMITTED — POLITICAL ACTIVITIES PROHIBITED — VIOLATIONS, CAUSE FOR DISMISSAL.

— 1. Every appointment or promotion to a position covered by this chapter shall be made on the basis of merit as provided in this chapter. Demotions in and dismissals from employment shall be made for cause under rules and regulations of the board uniformly applicable to all positions of employment. No appointment, promotion, demotion or dismissal shall be made because of favoritism, prejudice or discrimination. The regulations shall prohibit discrimination in other phases of employment and personnel administration and shall provide such remedy as is required

by federal merit system standards for grant-in-aid programs [and is not provided in chapter 296, RSMo].

2. Political endorsements shall not be considered in connection with any such appointment.

3. No person shall use or promise to use, directly or indirectly, for any consideration whatsoever, any official authority or influence to secure or attempt to secure for any person an appointment or advantage in appointment to any such position or an increase in pay, promotion or other advantage in employment.

4. No person shall in any manner levy or solicit any financial assistance or subscription for any political party, candidate, political fund, or publication, or for any other political purpose, from any employee in a position subject to this chapter, and no such employee shall act as agent in receiving or accepting any such financial contribution, subscription, or assignment of pay. No person shall use, or threaten to use, coercive means to compel an employee to give such assistance, subscription, or support, nor in retaliation for the employee's failure to do so.

5. No such employee shall be a candidate for nomination or election to any partisan public office or nonpartisan office in conflict with that employee's duties unless such person resigns, or obtains a regularly granted leave of absence, from such person's position.

6. No person elected to partisan public office shall, while holding such office, be appointed to any position covered by this chapter.

7. Any officer or employee in a position subject to this chapter who purposefully violates any of the provisions of this section shall forfeit such office or position. If an appointing authority finds that such a violation has occurred, or is so notified by the director, this shall constitute cause for dismissal pursuant to section 36.390 and a final determination by the [board] **administrative hearing commission** as to the occurrence of a violation.

36.280. TRANSFER OF EMPLOYEES — NONCOMPETITIVE EXAMINATION REQUIRED WHEN. — 1. An appointing authority may at any time assign an employee from one position to another position in the same class in the appointing authority's division; except that, transfers of employees made because of a layoff, or shortage of work or funds which might require a layoff, shall be governed by the regulations. Upon making such an assignment the appointing authority shall forthwith give written notice of the appointing authority's action to the director. A transfer of an employee from a position in one division to a position in the same class in another division may be made with the approval of the director and of the appointing authorities of both divisions. No employee shall be transferred from a position in one class to a position in another class of a higher rank or for which there are substantially dissimilar requirements for appointment unless the employee is appointed to such latter position after certification of the employee's name from a register in accordance with the provisions of this chapter. Any change of an employee from a position in one class to a position in a class of lower rank shall be considered a demotion and shall be made only in accordance with the procedure prescribed by section 36.380 for cases of dismissal. An employee thus involuntarily demoted shall have the right to appeal to the [board] **administrative hearing commission** pursuant to section 36.390.

2. An employee who has successfully served at least one year in a position not subject to subsection 1 of section 36.030, but which is subject to section 36.031, may be transferred to a position subject to subsection 1 of section 36.030 in the same class with the approval of the director and of the appointing authorities of both divisions, provided he or she possesses the qualifications and has successfully completed a noncompetitive examination for the position involved.

36.370. SUSPENSION OF EMPLOYEES — EXCEPTION FOR NATIONAL GUARD MEMBERS, WHEN — APPEAL FROM SUSPENSION AUTHORIZED. — 1. An appointing authority may, for disciplinary purposes, suspend without pay any employee in his division for such length of time as he considers appropriate, not exceeding twenty working days in any twelve-month period except that this limitation shall not apply in the event of a terminal suspension given in

conjunction with a dismissal. In case of a suspension, the director shall be furnished with a statement in writing specifically setting forth the reasons for such suspension. Upon request, a copy of such statement shall be furnished to such employee. With the approval of the director, any employee may be suspended for a longer period pending the investigation or trial of any charges against him. Any regular employee who is suspended for more than five working days shall have the right to appeal to the [board] **administrative hearing commission** as provided under section 36.390.

2. An appointing authority may not suspend without pay any employee in his division who is a member of the national guard and is engaged in the performance of duty or training in the service of this state at the call of the governor and as ordered by the adjutant general, but shall grant a leave of absence from duty without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits, to which otherwise entitled, and shall pay that employee his salary or compensation for the entire period of absence for that purpose.

36.380. DISMISSAL OF EMPLOYEE — NOTICE, HOW GIVEN — APPROVAL FOR REEMPLOYMENT, WHEN. — An appointing authority may dismiss for cause any employee in his division occupying a position subject hereto when he considers that such action is required in the interests of efficient administration and that the good of the service will be served thereby. No dismissal of a regular employee shall take effect unless, prior to the effective date thereof, the appointing authority gives to such employee a written statement setting forth in substance the reason therefor and files a copy of such statement with the director. When it is not practicable to give the notice of dismissal to an employee in person, it may be sent to the employee by certified or registered mail, return receipt requested, at his last mailing address as shown in the personnel records of the appointing authority. Proof of refusal of the employee to accept delivery or the inability of postal authorities to deliver such mail shall be accepted as evidence that the required notice of dismissal has been given. If the director determines that the statement of reasons for the dismissal given by the appointing authority shows that such dismissal does not reflect discredit on the character or conduct of the employee, he may, upon request of the employee, approve reemployment under section 36.240, in any class in which the employee has held regular status. Any regular employee who is dismissed shall have the right to appeal to the [board] **administrative hearing commission** as provided under section 36.390.

36.390. RIGHT OF APPEAL, PROCEDURE, REGULATION — NONMERIT AGENCIES MAY ADOPT — DISMISSAL APPEAL PROCEDURE — NONMERIT AGENCIES, NOT ADOPTING, TO ESTABLISH SIMILAR SYSTEM, EXCEPTIONS. — 1. An applicant whose request for admission to any examination has been rejected by the director may appeal to the [board] **administrative hearing commission** in writing within fifteen days of the mailing of the notice of rejection by the director, and in any event before the holding of the examination. The [board's] **commission's** decision on all matters of fact shall be final.

2. Applicants may be admitted to an examination pending a consideration of the appeal, but such admission shall not constitute the assurance of a passing grade in education and experience.

3. Any applicant who has taken an examination and who feels that he or she has not been dealt with fairly in any phase of the examination process may request that the director review his or her case. Such request for review of any examination shall be filed in writing with the director within [thirty] **fifteen** days after the date on which notification of the results of the examination was mailed to the applicant. A candidate may appeal the decision of the director in writing to the [board] **administrative hearing commission**. This appeal shall be filed with the [board] **administrative hearing commission** within [thirty] **fifteen** days after date on which notification of the decision of the director was mailed to the applicant. The [board's] **commission's** decision with respect to any changes shall be final, and shall be entered in the

minutes. A correction in the rating shall not affect a certification or appointment which may have already been made from the register.

4. An eligible whose name has been removed from a register for any of the reasons specified in section 36.180 or in section 36.240 may appeal to the [board] **administrative hearing commission** for reconsideration. Such appeal shall be filed in writing [at] **with** the [office of the director] **administrative hearing commission** within [thirty] **fifteen** days after the date on which notification was mailed to the [board] **eligible**. The [board] **commission**, after investigation, shall make its decision which shall be recorded in the minutes and the eligible shall be notified accordingly by the director.

5. Any regular employee who is dismissed or involuntarily demoted for cause or suspended for more than five working days may appeal in writing to the [board] **administrative hearing commission** within thirty days after the effective date thereof, setting forth in substance the employee's reasons for claiming that the dismissal, suspension or demotion was for political, religious, or racial reasons, or not for the good of the service. [Upon such appeal, both the appealing employee and the appointing authority whose action is reviewed shall have the right to be heard and to present evidence at a hearing which, at the request of the appealing employee, shall be public. At the hearing of such appeals, technical rules of evidence shall not apply. After the hearing and consideration of the evidence for and against a suspension, demotion, or dismissal, the board shall approve or disapprove such action and may make any one of the following appropriate orders:

- (1) Order the reinstatement of the employee to the employee's former position;
- (2) Sustain the dismissal of such employee;
- (3) Except as provided in subdivisions (1) and (2) of this subsection, the board may sustain the dismissal, but may order the director to recognize reemployment rights for the dismissed employee pursuant to section 36.240, in an appropriate class or classes, or may take steps to effect the transfer of such employee to an appropriate position in the same or another division of service.

6. Any order by the board under subsection 5 of this section shall be a final decision on the merits and may be appealed as provided in chapter 536, RSMo.

7. After an order of reinstatement has been issued and all parties have let the time for appeal lapse or have filed an appeal and that appeal process has become final and the order of reinstatement has been affirmed, the board shall commence a separate action to determine the date of reinstatement and the amount of back pay owed to the employee. This action may be done by hearing, or by affidavit, depositions, or stipulations, or by agreement on the amount of back pay owed. If the parties cannot reach an agreement as to how the parties shall be heard on this separate action, then the board shall decide on the method through its hearing officer. No hearing will be public unless requested to be public by the employee.

8. The board shall establish such rules as may be necessary to give effect to the provisions of this section. The rules may provide that the board or the chairman of the board may delegate responsibility for the conduct of investigations and the hearing of appeals provided pursuant to any section of this chapter to a member of the board or to a hearing officer designated by the board. Such hearing officer shall have the power to administer oaths, subpoena witnesses, compel the production of records pertinent to any hearing, and take any action in connection with such hearing which the board itself is authorized to take by law other than making the final decision and appropriate order. When the hearing has been completed, the individual board member or the hearing officer who conducted the hearing shall prepare a summary thereof and recommend a findings of fact, conclusions of law, decision and appropriate order for approval of the board. The board may adopt such recommendations in whole or in part, require the production of additional testimony, reassign the case for rehearing, or may itself conduct such new or additional hearing as is deemed necessary prior to rendering a final decision. The board may also establish rules which provide for alternative means of resolving one or more of the types of appeals outlined in this section.]

[9.] 6. The provisions for appeals provided in subsection 5 of this section for dismissals of regular merit employees may be adopted by nonmerit agencies of the state for any or all employees of such agencies.

[10.] 7. Agencies not adopting the provisions for appeals provided in subsection 5 of this section shall adopt dismissal procedures substantially similar to those provided for merit employees. However, these procedures need not apply to employees in policy-making positions, or to members of military or law enforcement agencies.

[11.] 8. Hearings under this section shall be deemed to be a contested case and the procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536, RSMo. Decisions of the [personnel advisory board] **administrative hearing commission** shall be final and binding subject to appeal by either party. Final decisions of the [personnel advisory board] **administrative hearing commission** pursuant to this subsection shall be subject to review on the record by the circuit court pursuant to chapter 536, RSMo.

36.400. POWERS OF COMMISSION TO ADMINISTER OATHS AND ISSUE SUBPOENAS. — The [board] **administrative hearing commission**, each [member of the board.] **commissioner** and the director shall have power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by this law. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing, or who shall knowingly give false testimony therein, shall be guilty of a misdemeanor.

37.320. DIRECTOR, APPOINTMENT, QUALIFICATIONS — STAFF TO BE EMPLOYED UNDER SYSTEM. — 1. The commissioner of administration shall appoint a director as the executive head of the unit. The director must be experienced in the principles of information and forms management, archives, and the affairs and organization of state government. He **or she** shall be a person who is qualified by training and experience to administer the affairs of the unit.

2. The director shall appoint such staff as may be necessary to implement the provisions of sections 37.300 to 37.390, 109.250 and 181.100 to 181.110, RSMo. All staff members shall be appointed pursuant to the provisions of chapter 36, RSMo.

[3. The director shall also serve as an additional voting member of the state records commission established by the provisions of section 109.250, RSMo.]

37.900. STATEWIDE ELECTED OFFICIALS MAY REQUEST DETERMINATION OF LOWEST AND BEST BIDDER, PROCEDURE. — 1. Any statewide elected official may request the office of administration to determine the lowest and best bidder with respect to any contract for purchasing, printing, or services for which the official has the authority to contract.

2. The official shall submit the original request for proposal and any pertinent information explaining the evaluation criteria established in the request and any additional information the official deems necessary.

3. The office of administration shall not be required to inquire of or negotiate with any offeror submitting a bid and shall only be required to reply to the elected official within forty-five days after the submission of the request by naming the offeror the office of administration determines to be the lowest and best bidder based on all submitted documents.

43.040. LIEUTENANT COLONEL AND MAJORS — APPOINTMENT, QUALIFICATIONS. — The superintendent shall appoint from the membership of the patrol one lieutenant colonel and [five] **six** majors, who shall have the same qualifications as the superintendent, and who may be relieved of the rank of lieutenant colonel or major, as the case may be, and the duties of the position by the superintendent at his pleasure.

43.050. OFFICERS AND OTHER PERSONNEL, NUMBERS AUTHORIZED — EXCEPTIONS — ENFORCEMENT OF GAMING ACTIVITIES, WHEN — DISCRIMINATION PROHIBITED. — 1. The superintendent may appoint not more than [twenty-five] **thirty-four** captains and one director of radio, each of whom shall have the same qualifications as the superintendent, nor more than [sixty] **sixty-eight** lieutenants, and such additional force of sergeants, corporals and patrolmen, so that the total number of members of the patrol shall not exceed [nine hundred sixty-five] **one thousand sixty-four** officers and patrolmen and such numbers of radio personnel as the superintendent deems necessary.

2. In case of a national emergency the superintendent may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. The superintendent may enter into an agreement with the Missouri gaming commission to enforce any law, rule, or regulation, conduct background investigations under the laws of this state, and enforce the regulations of licensed gaming activities governed by chapter 313, RSMo. A notice of either party to terminate or modify the provisions of such agreement shall be in writing and executed not less than one year from the effective date of the termination or modification, unless mutually agreed upon by the superintendent and the Missouri gaming commission. Members of the patrol hired in conjunction with any agreement with the Missouri gaming commission shall not be subject to the personnel cap referenced in subsection 1 of this section. If such agreement is subsequently terminated or modified to reduce the number of personnel used in such agreement, those members affected by such termination or modification shall not be subject to the personnel cap referenced in subsection 1 of this section for a period of five years.

4. Member positions of the patrol originally acquired in conjunction with the community-oriented policing services federal grant or members assigned to fulfill the duties established in sections 43.350 to 43.380 shall not be subject to the personnel cap referenced in subsection 1 of this section.

5. Applicants shall not be discriminated against because of race, creed, color, national origin or sex.

43.390. DIVISION CREATED — DIRECTOR APPOINTMENT — POWERS OF OFFICERS — SALARIES, EXPENSES AND COMPENSATION. — 1. Notwithstanding the provisions of subsection 1 of section 43.025, there is hereby created within the Missouri state highway patrol a "Division of Water Patrol".

2. The superintendent of the Missouri state highway patrol shall appoint a director of the division of water patrol who shall be responsible for the operation of the division.

3. The superintendent of the Missouri state highway patrol may assign highway patrol members under the superintendent's command to serve in the division of water patrol on a permanent or temporary basis.

4. All officers assigned to the division of water patrol shall be vested with the powers prescribed in sections 306.165, 306.167, and 306.168.

5. All salaries, expenses, and other costs relating to the assignment of Missouri state highway patrol members to the division of water patrol shall be paid within the limits of appropriations from general revenue, the Missouri state water patrol fund established in section 306.185, or from such other funding as may be authorized by the general assembly.

58.445. DEATHS DUE TO MOTOR VEHICLE OR MOTORIZED WATERCRAFT ACCIDENTS — REPORT REQUIRED WHEN — TESTS FOR ALCOHOL AND DRUGS, WHEN. — 1. If any person within a coroner's or medical examiner's jurisdiction dies within eight hours of, and as a result of, an accident involving a motor vehicle, the coroner or medical examiner shall report the death and circumstances of the accident to the Missouri state highway patrol in writing. If any person

within a coroner's or medical examiner's jurisdiction dies within eight hours of, and as a result of, an accident involving a motorized watercraft and was thought to have been the operator of such watercraft, the coroner or medical examiner shall report the death and circumstances of the accident to the Missouri state **highway patrol**, water patrol **division**, in writing. The report required by this subsection shall be made within five days of the conclusion of the tests required in subsection 2 of this section.

2. The coroner or medical examiner shall make, or cause to be made, such tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs if feasible, in the blood of the deceased. The results of these tests shall be included in the coroner's or medical examiner's report to the state highway patrol [or the Missouri state water patrol,] as required by subsection 1 of this section.

104.810. WATER PATROL EMPLOYEES, MEMBERSHIP OPTIONS. — 1. Employees of the Missouri state water patrol who are earning creditable service in the closed plan of the Missouri state employees' retirement system and who are transferred to the division of water patrol with the Missouri state highway patrol shall elect within ninety days of January 1, 2011, to either remain a member of the Missouri state employees' retirement system or transfer membership and creditable service to the closed plan of the Missouri department of transportation and highway patrol employees' retirement system. The election shall be made in writing after the employee has received a detailed analysis comparing retirement, life insurance, disability benefits, and medical benefits of a member of the Missouri state employees' retirement system with the corresponding benefits provided an employee of the highway patrol covered by the closed plan of the Missouri department of transportation and highway patrol employees' retirement system. In electing plan membership the employee shall acknowledge and agree that an election made under this subsection is irrevocable, and constitutes a waiver to receive retirement, life insurance, disability benefits, and medical benefits except as provided by the system elected by the employee. Furthermore, in connection with the election, the employee shall be required to acknowledge that the benefits provided by virtue of membership in either system, and any associated costs to the employee, may be different now or in the future as a result of the election and that the employee agrees to hold both systems harmless with regard to benefit differences resulting from the election.

2. Employees of the Missouri state water patrol who are earning credited service in the year 2000 plan of the Missouri state employees' retirement system and who are transferred to the division of water patrol with the Missouri state highway patrol shall elect within ninety days of January 1, 2011, to either remain a member of the Missouri state employees' retirement system or transfer membership and creditable service to the year 2000 plan of the Missouri department of transportation and highway patrol employees' retirement system. The election shall be made in writing after the employee has received a detailed analysis comparing retirement, life insurance, disability benefits, and medical benefits of a member of the Missouri state employees retirement system with the corresponding benefits provided an employee of the highway patrol covered by the year 2000 plan of the Missouri department of transportation and highway patrol employees' retirement system. In electing plan membership the employee shall acknowledge and agree that an election made under this subsection is irrevocable, and constitutes a waiver to receive retirement, life insurance, disability benefits, and medical benefits except as provided by the system elected by the employee. Furthermore, in connection with the election, the employee shall be required to acknowledge that the benefits provided by virtue of membership in either system, and any associated costs to the employee, may be different now or in the future as a result of the election and that the employee agrees to hold both systems harmless with regard to benefit differences resulting from the election.

3. The Missouri state employees' retirement system shall pay to the Missouri department of transportation and highway patrol employees' retirement system, by June 30, 2011, an amount actuarially determined to equal the liability at the time of the transfer for any employee who elects under subsection 1 or 2 of this section to transfer to the Missouri department of transportation and highway patrol employees' retirement system, to the extent that liability is funded as of the most recent actuarial valuation and based on the actuarial value of assets not to exceed one hundred percent.

4. In no event shall any employee receive service credit for the same period of service under more than one retirement system as a result of the provisions of this section.

5. The only medical coverage available for any employee who elects under subsection 1 or 2 of this section to transfer to the Missouri department of transportation and highway patrol employees' retirement system shall be the medical coverage provided in section 104.270. The effective date for commencement of medical coverage shall be July 1, 2011. However, this does not preclude medical coverage for the transferred employee as a dependent under any other health care plan.

6. Any employee who elects under subsection 1 or 2 of this section to transfer to the Missouri department of transportation and highway patrol employees' retirement system and who is also thereafter a uniformed member of the highway patrol shall be subject to the mandatory retirement age stated in section 104.081.

105.055. STATE EMPLOYEE REPORTING MISMANAGEMENT OR VIOLATIONS OF AGENCIES, DISCIPLINE OF EMPLOYEE PROHIBITED — APPEAL BY EMPLOYEE FROM DISCIPLINARY ACTIONS, PROCEDURE — DISCIPLINARY ACTION DEFINED — VIOLATION, PENALTIES — CIVIL ACTION, WHEN. — 1. No supervisor or appointing authority of any state agency shall prohibit any employee of the agency from discussing the operations of the agency, either specifically or generally, with any member of the legislature, state auditor, attorney general, or any state official or body charged with investigating such alleged misconduct.

2. No supervisor or appointing authority of any state agency shall:

(1) Prohibit a state employee from or take any disciplinary action whatsoever against a state employee for the disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences:

(a) A violation of any law, rule or regulation; or

(b) Mismanagement, a gross waste of funds or abuse of authority, or a substantial and specific danger to public health or safety, if the disclosure is not specifically prohibited by law; or

(2) Require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

3. This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative requests for information to the agency or the substance of testimony made, or to be made, by the employee to legislators on behalf of the employee to legislators on behalf of the agency;

(2) Permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee;

(3) Authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or

(4) Restricting or precluding disciplinary action taken against a state employee if: the employee knew that the information was false; the information is closed or is confidential under the provisions of the open meetings law or any other law; or the disclosure relates to the

employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

4. As used in this section, "disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work, whether or not the withholding of work has affected or will affect the employee's compensation.

5. Any employee may file an administrative appeal whenever the employee alleges that disciplinary action was taken against the employee in violation of this section. The appeal shall be filed with the [state personnel advisory board] **administrative hearing commission**; provided that the appeal shall be filed with the appropriate agency review board or body of nonmerit agency employers which have established appeal procedures substantially similar to those provided for merit employees in subsection 5 of section 36.390, RSMo. The appeal shall be filed within thirty days of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with chapter [36] **536**, RSMo. If the [board] **commission** or appropriate review body finds that disciplinary action taken was unreasonable, the [board] **commission** or appropriate review body shall modify or reverse the agency's action and order such relief for the employee as the [board] **commission** considers appropriate. If the [board] **commission** finds a violation of this section, it may review and recommend to the appointing authority that the violator be suspended on leave without pay for not more than thirty days or, in cases of willful or repeated violations, may review and recommend to the appointing authority that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the [board] **commission** or appropriate review body in such cases may be appealed by any party pursuant to law.

6. Each state agency shall prominently post a copy of this section in locations where it can reasonably be expected to come to the attention of all employees of the agency.

7. (1) In addition to the remedies in subsection 6 of this section, a person who alleges a violation of this section may bring a civil action for damages within ninety days after the occurrence of the alleged violation.

(2) A civil action commenced pursuant to this subsection may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides.

(3) An employee must show by clear and convincing evidence that he or she or a person acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited activity or a suspected prohibited activity.

(4) A court, in rendering a judgment in an action brought pursuant to this section, shall order, as the court considers appropriate, actual damages, and may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees.

109.250. STATE RECORDS COMMISSION ESTABLISHED — MEMBERS — DUTIES — MEETINGS. — 1. There is hereby created the "State Records Commission". It shall consist of the following members: the secretary of state, or his **or her** authorized representative, who shall act as [chairman] **chairperson**; the attorney general, or his **or her** authorized representative; the state auditor, or his **or her** authorized representative; [the director of the forms management unit appointed pursuant to section 37.320, RSMo] **the commissioner of the office of administration, or his or her authorized representative**; a member of the house of representatives appointed by the speaker of the house; a member of the senate appointed by the president pro tem of the senate; the director of the state historical society; and the chief information officer. The director of the records management and archives service will serve as secretary to the commission. While serving as secretary to the commission, he **or she** shall have no vote on matters considered by the commission.

2. It shall be the duty of the commission to determine what records no longer have any administrative, legal, research, or historical value and should be destroyed or disposed of

otherwise. The commission will prescribe the procedures for compiling and submitting to the commission lists and schedules of records proposed for disposal and the procedures for the physical destruction or other disposition of records. Procedures prescribed by the commission will be promulgated by the director of the records management and archives service, only upon written approval of the commission.

3. The commission shall meet whenever called by the [chairman] **chairperson**.

208.215. PAYER OF LAST RESORT — LIABILITY FOR DEBT DUE THE STATE, CEILING — RIGHTS OF DEPARTMENT, WHEN, PROCEDURE, EXCEPTION — REPORT OF INJURIES REQUIRED, FORM, RECOVERY OF FUNDS — RECOVERY OF MEDICAL ASSISTANCE PAID, WHEN — COURT MAY ADJUDICATE RIGHTS OF PARTIES, WHEN. — 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made [in] **on** behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or disability or benefits arising from a health insurance program to which the participant may be entitled. **Any health benefit plan as defined in section 376.1350, third party administrator, administrative service organization, and pharmacy benefits manager, shall process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:**

(1) For a period of three years from the date services were provided or rendered; however, an entity:

(a) Shall not be required to reimburse for items or services which are not covered under MO HealthNet;

(b) Shall not deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to provide prior authorization;

(c) Shall not be required to reimburse for items or services for which a claim was previously submitted to the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager by the health care provider or the participant and the claim was properly denied by the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager for procedural reasons, except for timely filing, type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(d) Shall not be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim for subrogation has been filed; and

(e) Shall reimburse for items or services to the same extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it had been properly billed at the point of sale; and

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due under this section in the name of the state of

Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A [recipient] **participant** who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a [recipient] **participant** to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the

participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of the participant but also the reasonably necessary and foreseeable

future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. **The computerized records of the MO HealthNet division, certified by the director or his designee, shall be prima facie evidence of proof of moneys expended and the amount of the debt due the state.**

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, [irrespective] **regardless** of whether [or not] an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the participant's entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The notice of lien shall contain the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be filed with the recorder. The department of social services, MO HealthNet division,

shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled; or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet

division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

- (1) Actual and legal issues of liability as may exist between the [recipient] **participant** and the liable party;
- (2) Total funds available for settlement; and
- (3) An estimate of the cost to the division of pursuing its claim.

301.716. SPECIAL ENFORCEMENT PROCEDURES. — 1. Any violation of the provisions of sections 301.700 to 301.714 shall be an infraction. An arrest or service of summons for violations of the provisions of sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles may be made by the duly authorized law enforcement officer of any political subdivision of the state, the highway patrol [and the state water patrol].

2. Violations of sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles or any rule or order hereunder may be referred to the proper prosecuting attorney or circuit attorney who may, with or without such reference, institute appropriate proceedings.

3. Nothing in sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law.

306.010. DEFINITIONS. — As used in this chapter the following terms mean:

(1) "Motorboat", any vessel propelled by machinery, whether or not such machinery is a principal source of propulsion;

(2) "Operate", to navigate or otherwise use a motorboat or a vessel;

(3) "Operator", the person who operates or has charge of the navigation or use of a vessel;

(4) "Owner", a person other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest of another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(5) "Parasailing", the towing of any person equipped with a parachute or kite equipment by any watercraft operating on the waters of this state;

(6) "Personal watercraft", a class of vessel, which is less than sixteen feet in length, propelled by machinery which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than being operated by a person sitting or standing inside the vessel;

(7) "Skiing", any activity that involves a person or persons being towed by a vessel, including but not limited to waterskiing, wake boarding, wake surfing, knee boarding, and tubing;

(8) "Vessel", every motorboat and every description of motorized watercraft, and any watercraft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, used or capable of being used as a means of transportation on water, but not any watercraft having as the only means of propulsion a paddle or oars;

(9) "Watercraft", any boat or craft, including a vessel, used or capable of being used as a means of transport on waters;

(10) **"Water patrol division of the state highway patrol" or "water patrol division", the division responsible for enforcing the provisions of this chapter on the waters of this state. The revisor of statutes is instructed to replace the terms "Missouri state water**

patrol" or "state water patrol" wherever those terms exist in this chapter with the term "water patrol division";

(11) "Waters of this state", any waters within the territorial limits of this state and lakes constructed or maintained by the United States Army Corps of Engineers except bodies of water owned by a person, corporation, association, partnership, municipality or other political subdivision, public water supply impoundments, and except drainage ditches constructed by a drainage district, but the term does include any body of water which has been leased to or owned by the state department of conservation.

306.165. WATER PATROL OFFICER, POWERS, DUTIES AND JURISDICTION OF. — Each [water] patrol officer [appointed by the Missouri state water patrol and each of such other employees as may be designated by the patrol, before entering upon his or her duties, shall take and subscribe an oath of office to perform all duties faithfully and impartially, and shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting] **assigned to the water patrol division by the superintendent of the highway patrol as provided in section 43.390 shall possess** all the powers of a peace officer to enforce all laws of this state, upon all of the following:

- (1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4), and (5) of this section;
- (2) All federal land, where not prohibited by federal law or regulation, and state land adjoining the waterways of this state;
- (3) All land within three hundred feet of the areas in subdivision (2) of this section;
- (4) All land adjoining and within six hundred feet of any waters impounded in areas not covered in subdivision (2) with a shoreline in excess of four miles;
- (5) All land adjoining and within six hundred feet of the rivers and streams of this state;
- (6) Any other jurisdictional area, pursuant to the provisions of section 306.167;
- (7) All premises leased or owned or under control of the Missouri state [water] **highway** patrol.

Each [water] patrol officer **assigned to the water patrol division** may board any watercraft at any time, with probable cause, for the purpose of making any inspection necessary to determine compliance with the provisions of this chapter. Each [water] patrol officer may arrest on view and without a warrant any person he or she sees violating or who such patrol officer has reasonable grounds to believe has violated any law of this state, upon any water or land area subject to his or her jurisdiction as provided in this section or may arrest anyone violating any law in his or her presence throughout the state. Each [water] patrol officer, while investigating an accident or crime that was originally committed within such patrol officer's jurisdiction, as set forth in this section, may arrest any person who he or she has probable cause to believe has committed such crime, even if the suspect is currently out of the **division of** water patrol's jurisdiction. [Water] Patrol officers, if practicable, shall notify the sheriff or the police department prior to making an arrest within their respective county or city. Each [water] patrol officer shall comply with the training and certification provisions of chapter 590, RSMo.

306.167. POWERS OF PEACE OFFICER WHEN WORKING IN COOPERATION WITH OTHER LAW ENFORCEMENT AGENCY. — The uniformed members of the [state] water patrol **division**, with the exception of radio personnel, shall have full power and authority as now or hereafter vested by law in peace officers when working with and at the special request of the sheriff of any county, the chief park ranger of any first class county not having a charter form of government and containing a portion of a city with a population exceeding four hundred thousand inhabitants, the chief of police of any city, or the superintendent of the state highway patrol [as directed by the commissioner of the water patrol]; provided, however, that such power and

authority shall be exercised only upon the prior notification of the chief law enforcement officer of each jurisdiction.

306.168. SEARCH WARRANTS, WATER PATROL DIVISION MAY REQUEST APPLICATION FOR AND SERVE, WHEN. — In the investigation of an accident or crime that was originally committed within such patrol officer's jurisdiction, as set forth in section 306.165, the members of the water patrol **division** may request that the prosecuting or circuit attorney apply for, and members of the water patrol **division** may serve, search warrants anywhere within the state of Missouri, provided the sheriff of the county in which the warrant is to be served, or his designee, shall be notified upon application by the applicant of the search warrant. **The sheriff or his designee shall participate in serving the search warrant except for offenses pertaining to boating while intoxicated and the investigation of vessel accidents. Any designee of the sheriff shall be a deputy sheriff or other person certified as a peace officer under chapter 590. The sheriff shall always have a designee available.**

306.185. WATER PATROL DIVISION FUND CREATED, USE OF PROCEEDS. — 1. There is hereby created in the state treasury the "Missouri State Water Patrol Fund", which shall consist of money collected under section 306.030. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the expenses of the Missouri state **highway patrol**, water patrol **division**, including but not limited to [personal] **personnel** expense, training expense, and equipment expense **for the purpose of enforcing the laws of this chapter.**

2. Notwithstanding the provisions of section 33.080, RSMo, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

[4. Within available appropriations in this section, the commissioner of the water patrol shall establish with the advice of the director of personnel an equitable pay plan for the members of the water patrol and radio personnel taking into consideration ranks and length of service.

5. If in the immediate previous fiscal year, the state's net general revenue did not increase by two percent or more, the state treasurer shall deposit moneys, except for gifts, donations, or bequests, received under this section beginning January first of the current fiscal year into the state general revenue fund. Otherwise, the state treasurer shall deposit such moneys in accordance with the provisions of this section.]

542.261. PEACE OFFICER DEFINED. — As used in sections 542.261 to 542.296 and section 542.301, the term "peace officer" means a police officer, member of the highway patrol [or water patrol] to the extent otherwise permitted by law to conduct searches, sheriff or deputy sheriff.

544.157. LAW ENFORCEMENT OFFICERS, CONSERVATION AGENTS, CAPITOL POLICE, AND PARK RANGERS, ARREST POWERS — FRESH PURSUIT DEFINED — POLICY OF AGENCY ELECTING TO INSTITUTE VEHICULAR PURSUITS. — 1. Any law enforcement officer certified pursuant to chapter 590, RSMo, of any political subdivision of this state, any authorized agent of the department of conservation, any commissioned member of the Missouri capitol police[,] **and any commissioned member of the Missouri state park rangers [and any authorized agent of the Missouri state water patrol]** in fresh pursuit of a person who is reasonably believed by such officer to have committed a felony in this state or who has committed, or attempted to commit, in the presence of such officer or agent, any criminal offense or violation of a municipal or county ordinance, or for whom such officer holds a warrant of arrest for a criminal offense, shall have the authority to arrest and hold in custody such person anywhere in this state. Fresh pursuit may only be initiated from within the pursuing peace officer's, conservation agent's, capitol police

officer's[.] or state park ranger's [or water patrol officer's] jurisdiction and shall be terminated once the pursuing peace officer is outside of such officer's jurisdiction and has lost contact with the person being pursued. If the offense is a traffic violation, the uniform traffic ticket shall be used as if the violator had been apprehended in the municipality or county in which the offense occurred.

2. If such an arrest is made in obedience to a warrant, the disposition of the prisoner shall be made as in other cases of arrest under a warrant; if the violator is served with a uniform traffic ticket, the violator shall be directed to appear before a court having jurisdiction to try the offense; if the arrest is without a warrant, the prisoner shall be taken forthwith before a judge of a court with original criminal jurisdiction in the county wherein such arrest was made or before a municipal judge thereof having original jurisdiction to try such offense, who may release the person as provided in section 544.455, conditioned upon such person's appearance before the court having jurisdiction to try the offense. The person so arrested need not be taken before a judge as herein set out if given a summons by the arresting officer.

3. The term "fresh pursuit", as used in this section, shall include hot or fresh pursuit as defined by the common law and also the pursuit of a person who has committed a felony or is reasonably suspected of having committed a felony in this state, or who has committed or attempted to commit in this state a criminal offense or violation of municipal or county ordinance in the presence of the arresting officer referred to in subsection 1 of this section or for whom such officer holds a warrant of arrest for a criminal offense. It shall include also the pursuit of a person suspected of having committed a supposed felony in this state, though no felony has actually been committed, if there is reasonable ground for so believing. "Fresh pursuit" as used herein shall imply instant pursuit.

4. A public agency electing to institute vehicular pursuits shall adopt a policy for the safe conduct of vehicular pursuits by peace officers. Such policy shall meet the following minimum standards:

- (1) There shall be supervisory control of the pursuit;
- (2) There shall be procedures for designating the primary pursuit vehicle and for determining the total number of vehicles to be permitted to participate at one time in the pursuit;
- (3) There shall be procedures for coordinating operation with other jurisdictions; and
- (4) There shall be guidelines for determining when the interests of public safety and effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be initiated or should be terminated.

577.090. POWERS OF LAW ENFORCEMENT OFFICERS — LIMITED POWERS OF CONSERVATION AGENTS. — Any law enforcement officer shall and any agent of the conservation commission or deputy or **member of the highway patrol, water patrol [officer] division,** may enforce the provisions of sections 577.070 and 577.080 and arrest violators thereof; except that conservation agents [and water patrolmen] may enforce such provisions only upon the water, the banks thereof or upon public land.

621.015. ADMINISTRATIVE HEARING COMMISSION, NUMBER OF COMMISSIONERS — QUALIFICATIONS, APPOINTMENT, TERMS, COMPENSATION. — The "Administrative Hearing Commission" is assigned to the office of administration. It shall consist of no more than [three] **five** commissioners. The commissioners shall be appointed by the governor with the advice and consent of the senate. The term of each commissioner shall be for six years and until his successor is appointed, qualified and sworn. The commissioners shall be attorneys at law admitted to practice before the supreme court of Missouri, but shall not practice law during their term of office. Each commissioner shall receive annual compensation of fifty-one thousand dollars plus any salary adjustment provided pursuant to section 105.005, RSMo. Each commissioner shall also be entitled to actual and necessary expenses in the performance of his duties. The office of the administrative hearing commission shall be located in the City of

Jefferson and it may employ necessary clerical assistance, compensation and expenses of the commissioners to be paid from appropriations made for that purpose.

621.075. MERIT EMPLOYEES, RIGHT OF APPEAL, PROCEDURE. — 1. Except as otherwise provided by law, any employee with merit status who has been dismissed or involuntarily demoted for cause or suspended for more than five working days shall have the right to appeal to the administrative hearing commission. Any such person shall be entitled to a hearing before the administrative hearing commission by the filing of an appeal setting forth in substance the employee's reasons for claiming that the dismissal, suspension, or demotion was for political, religious, or racial reasons, or not for the good of the service with the administrative hearing commission within thirty days after the effective date of the action. The decision of the appointing authority shall contain a notice of the right of appeal in substantially the following language:

"Any employee with regular status who has been dismissed or involuntarily demoted for cause or suspended for more than five working days may appeal to the administrative hearing commission. To appeal, you must file an appeal with the administrative hearing commission within thirty days after the effective date of the decision. If any such appeal is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission."

2. The procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536. The administrative hearing commission may hold hearings or may make decisions based on stipulation of the parties, consent order, agreed settlement, or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, in accordance with the rules and procedures of the administrative hearing commission. No hearing shall be public unless requested to be public by the employee. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in hearings governed by this section, and decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. The administrative hearing commission may make any one of the following appropriate orders:

- (1) Order the reinstatement of the employee to the employee's former position;
- (2) Sustain the dismissal of such employee;
- (3) Except as provided in subdivisions (1) and (2) of this subsection, the administrative hearing commission may sustain the dismissal, but may order the director of personnel to recognize reemployment rights for the dismissed employee pursuant to section 36.240, in an appropriate class or classes, or may take steps to effect the transfer of such employee to an appropriate position in the same or another division of service.

3. After an order of reinstatement has been issued and all parties have let the time for appeal lapse or have filed an appeal and that appeal process has become final and the order of reinstatement has been affirmed, the administrative hearing commission shall commence a separate action to determine the date of reinstatement and the amount of back pay owed to the employee. This action may be done by hearing, or by affidavit, depositions, or stipulations, or by agreement on the amount of back pay owed. No hearing shall be public unless requested to be public by the employee.

630.060. COOPERATION WITH OTHER GROUPS. — 1. The department shall seek and encourage cooperation and active participation of communities, counties, organizations, agencies, private and not-for-profit corporations and individuals in the effort to establish and maintain quality programs and services for persons affected by mental disorders, developmental disabilities or alcohol or drug abuse. The department shall develop programs of public information and education for this purpose.

2. The department shall cooperate with and may directly contract with all state agencies, local units of government, and any of the governor's advisory councils or commissions, or their successor agencies, and with the Missouri Mental Health Foundation, or its successor entity, in delivery of programs designed to improve public understanding of attitudes toward mental disorders, developmental disabilities, and alcohol and drug abuse pursuant to subdivision (3) of subsection 1 of section 630.020. For purposes of this section, the contracting process of the department with these entities need not be governed by the provisions of chapter 34.

650.005. DEPARTMENT OF PUBLIC SAFETY CREATED — DIRECTOR, APPOINTMENT — DEPARTMENT'S DUTIES — RULES, PROCEDURE. — 1. There is hereby created a "Department of Public Safety" in charge of a director appointed by the governor with the advice and consent of the senate. The department's role will be to provide overall coordination in the state's public safety and law enforcement program, to provide channels of coordination with local and federal agencies in regard to public safety, law enforcement and with all correctional and judicial agencies in regard to matters pertaining to its responsibilities as they may interrelate with the other agencies or offices of state, local or federal governments.

2. All the powers, duties and functions of the state highway patrol, chapter 43, RSMo, and others, are transferred by type II transfer to the department of public safety. The governor by and with the advice and consent of the senate shall appoint the superintendent of the patrol. With the exception of sections 43.100 to 43.120, RSMo, relating to financial procedures, the director of public safety shall succeed the state highways and transportation commission in approving actions of the superintendent and related matters as provided in chapter 43, RSMo. Uniformed members of the patrol shall be selected in the manner provided by law and shall receive the compensation provided by law. Nothing in the Reorganization Act of 1974, however, shall be interpreted to affect the funding of appropriations or the operation of chapter 104, RSMo, relating to retirement system coverage or section 226.160, RSMo, relating to workers' compensation for members of the patrol.

3. All the powers, duties and functions of the supervisor of liquor control, chapter 311, RSMo, and others, are transferred by type II transfer to the department of public safety. The supervisor shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies and inspectors as limited by appropriations. All employees shall have the qualifications provided by law and may be removed by the supervisor or director of the department as provided in section 311.670, RSMo.

4. The director of public safety, superintendent of the highway patrol and transportation division of the department of economic development are to examine the motor carrier inspection laws and practices in Missouri to determine how best to enforce the laws with a minimum of duplication, harassment of carriers and to improve the effectiveness of supervision of weight and safety requirements and to report to the governor and general assembly by January 1, 1975, on their findings and on any actions taken.

5. The Missouri division of highway safety is transferred by type I transfer to the department of public safety. The division shall be in charge of a director who shall be appointed by the director of the department.

6. All the powers, duties and functions of the safety and fire prevention bureau of the department of public health and welfare are transferred by type I transfer to the director of public safety.

7. All the powers, duties and functions of the state fire marshal, chapter 320, RSMo, and others, are transferred to the department of public safety by a type I transfer.

8. All the powers, duties and functions of the law enforcement assistance council administering federal grants, planning and the like relating to Public Laws 90-351, 90-445 and related acts of Congress are transferred by type I transfer to the director of public safety. The

director of public safety shall appoint such advisory bodies as are required by federal laws or regulations. The council is abolished.

9. The director of public safety shall promulgate motor vehicle regulations and be ex officio a member of the safety compact commission in place of the director of revenue and all powers, duties and functions relating to chapter 307, RSMo, are transferred by type I transfer to the director of public safety.

10. The office of adjutant general and the state militia are assigned to the department of public safety; provided, however, nothing herein shall be construed to interfere with the powers and duties of the governor as provided in article IV, section 6 of the Constitution of the state of Missouri or chapter 41, RSMo.

11. All the powers, duties and functions of the Missouri boat commission, chapter 306, RSMo, and others, are transferred by type I transfer to the "Missouri State Water Patrol", which is hereby created, in the department of public safety. The Missouri boat commission and the office of secretary to the commission are abolished. [The Missouri state water patrol shall be headed by a boat commissioner who shall be appointed by the governor, with the advice and consent of the senate.] All deputy boat commissioners and all other employees of the commission who were employed on February 1, 1974, shall be transferred to the water patrol without further qualification. **Effective January 1, 2011, all the powers, duties, and functions of the Missouri state water patrol are transferred to the division of water patrol within the Missouri state highway patrol as set out in section 43.390.**

12. The [division of veterans affairs] **Missouri veterans's commission**, chapter 42, RSMo, is assigned to the [office of adjutant general. The adjutant general, with the advice of the veterans' board, shall appoint the director of the division of veterans affairs who shall serve at the pleasure of the adjutant general] **department of public safety.**

13. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

SECTION 1. GENERAL SERVICES ADMINISTRATION VENDORS, PURCHASE OF SUPPLIES AUTHORIZED. — In any contract for purchasing supplies as defined in section 34.010 not exceeding the threshold for competitive bids set forth under section 34.040, the office of administration shall not prevent any department, office, board, commission, bureau, institution, political subdivision, or any other agency of the state from purchasing supplies from an authorized General Services Administration vendor including "GSA Advantage", "GSA e-Buy", or successor sources.

[306.161. WATER PATROL DIVISION AUTHORIZED TO EMPLOY PERSONNEL. — The Missouri state water patrol is authorized to employ, within the limits of appropriations and notwithstanding any other provision of law to the contrary, such personnel as may be necessary to properly perform the duties of the water patrol, and the water patrol shall prescribe the duties and responsibilities of such personnel.]

[306.163. COMMISSIONER OF WATER PATROL, APPOINTMENT, OATH, DUTIES — GRANTED POWERS OF A PEACE OFFICER, WHEN — LIEUTENANT COLONEL TO ASSUME THE DUTIES OF THE COMMISSIONER, WHEN. — 1. The governor, by and with the advice and consent of the senate, shall appoint a commissioner of the Missouri state water patrol to serve at the pleasure of the governor. The commissioner shall take and subscribe an oath of office to

perform the commissioner's duties faithfully and impartially. The commissioner appointed by the governor shall have at least ten years of experience in law enforcement similar to the duties exercised by uniformed officers of the state water patrol or at least five years of experience as a uniformed officer of the state water patrol.

2. The commissioner shall prescribe rules for instruction and discipline and make administrative rules and regulations and fix the hours of duty for the members of the patrol. The commissioner shall have charge of the office of the patrol, shall be custodian of the records of the patrol, and shall direct the day-to-day activities of the officers, patrolmen and office personnel.

3. The commissioner shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting him or her all the powers of a peace officer to enforce all the laws of this state within the jurisdiction of the water patrol as listed in section 306.165, provided that he has completed a law enforcement training course which meets the standards established in chapter 590, RSMo.

4. In the absence, or upon the disability, of the commissioner, or at the time the commissioner designates, the lieutenant colonel shall assume the duties of the commissioner. In case of the disability of the commissioner and the lieutenant colonel, the governor may designate a major as acting commissioner and when so designated, the acting commissioner shall have all the powers and duties of the commissioner.]

[306.227. MINIMUM AGE FOR WATER PATROLMEN AND RADIO PERSONNEL — DISQUALIFYING CRITERIA FOR PATROLMEN AND THE COMMISSIONER. — Patrolmen and radio personnel of the water patrol shall not be less than twenty-one years of age. No person shall be appointed as commissioner or as a member of the patrol or as a member of the radio personnel who:

- (1) Has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime;
- (2) Is not of good character;
- (3) Is not a citizen of the United States;
- (4) At the time of appointment is not a citizen of the state of Missouri;
- (5) Has not completed a high school program of education under chapter 167, RSMo, or has not obtained a General Educational Development (GED) certificate, and who has not obtained advanced education and experience as approved by the commissioner; or
- (6) Does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the commissioner prescribes.]

[306.228. AUTHORIZED PERSONNEL APPOINTMENTS BY THE COMMISSIONER — NATIONAL EMERGENCY, PERSONNEL CALLED INTO MILITARY SERVICE — DISCRIMINATION PROHIBITED. — 1. The commissioner may appoint from within the membership not more than one assistant commissioner, two majors, nine captains, nine lieutenants, and one director of radio, each of whom shall have the same qualifications as the commissioner, and such additional force of sergeants, corporals and patrolmen and such numbers of radio personnel as the commissioner deems necessary.

2. In case of a national emergency the commissioner may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. Applicants shall not be discriminated against because of race, creed, color, national origin, religion or sex.]

[306.229. SALARY INCREASES, COMMISSIONER MAY PRESCRIBE POLICIES FOR — SUBMISSION OF A SALARY SCHEDULE, CONTENTS — MILITARY SERVICES, EFFECT OF. — 1.

The commissioner is authorized and empowered to prescribe policies providing increases in the salaries of patrolmen and radio personnel of the water patrol, subject to appropriations. Each year, prior to January first, the commissioner shall submit a salary schedule report to the governor, speaker of the house of representatives, and the president pro tem of the senate. The salary schedule report prepared by the commissioner shall include, in addition to other matters deemed pertinent to the commissioner, a comparison of the salaries of police officers of three police departments that employ similar numbers of patrol officers in the state. Such report shall also include a full description and comparison of each department position used to determine parity for all patrol positions of sergeant and above. The governor may make additional recommendations to the report and forward them to the speaker of the house of representatives and president pro tem of the senate. The speaker of the house of representatives and the president pro tem of the senate may assign the salary schedule report to the appropriate standing committees to review the salary comparisons to ensure that parity, as adjusted for equivalent duties and functions, in the salary of patrolmen and radio personnel of the water patrol and officers of the three police departments that employ similar numbers of patrol officers in the state is maintained. The commissioner of the water patrol shall testify before the appropriate committee on the salary schedule report if called up by such committee.

2. The service of a member of the patrol, who has served in the armed forces of the United States and who has subsequently been reinstated as a member of the patrol within ninety days after receiving a discharge other than dishonorable from the armed forces of the United States, shall be considered service with the patrol as a member of the patrol rendered since last becoming a member prior to entrance into the armed forces of the United States; except that no member shall be entitled to any credit, privilege or benefit provided by this chapter if such reenlistment, waiver of discharge, acceptance of commission or any other action with the armed forces beyond the period of service for which such member was originally commissioned, enlisted, inducted or called.]

[306.230. RULES AUTHORIZED — PROMOTION OF PATROLMEN, GENERAL ORDER OF COMMISSIONER TO ESTABLISH CIRCUMSTANCES FOR. — 1. The commissioner shall prescribe rules for instruction and discipline and make all administrative rules and regulations and fix the hours of duty for the members of the patrol. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void. The commissioner shall divide the state into districts and assign members of the patrol to such districts in a manner deemed proper to carry out the purposes of this chapter. The commissioner may call members of the patrol from one district to another.

2. The commissioner may, by general order, establish for the circumstances under which members of the patrol are promoted. The commissioner shall classify and, by promotion, increase the rank of lieutenant colonels, majors, captains, lieutenants, sergeants, corporals, patrolmen, and radio personnel from the next lower rank after not less than one year of service satisfactorily performed therein. If the commissioner finds the candidate pool to fill a position through promotion is not sufficient from which to select, the commissioner may promote an individual from the next lower rank.]

[306.232. DISCIPLINARY ACTION AFTER PROBATION PERMITTED, WHEN — COMPLAINT PROCEDURES. — 1. After a probation period of one year, members of the patrol shall be subject to removal, reduction in rank, or suspension of more than three days only for cause after

a petition with a formal charge has been filed in writing before or by the commissioner and upon a finding and vote by a majority of a board of six patrol members after a hearing. The members of the board shall be randomly selected from districts or divisions other than that of the accused. The board shall be composed of six unbiased members including one nonvoting captain, one lieutenant, and four members of the same rank as the accused member. The randomly selected captain shall serve as presiding officer at the hearing. Within thirty days after the petition is filed, unless the accused consents to an extension of the time, the board shall conduct a hearing and report to the commissioner the finding and vote of the majority of the board, whether the charges are true, and what discipline, if any, should be imposed. All lawful rules, regulations, and orders of the commissioner shall be obeyed by the members of the patrol, who shall be subject to dismissal or one or more of the following as adjudged by the commissioner:

- (1) Suspension without pay for not more than thirty days;
- (2) Reduction in rank; or
- (3) Disciplinary transfer at the member's expense. Nothing in this section shall be construed to prevent nondisciplinary transfers of members if the commissioner determines that such transfers are for the good of the patrol. No hearings shall be required in the case of reprimands or suspensions of three days or less which may be imposed at the discretion of the commissioner.

2. If a complaint is filed against a member, the member shall be provided a copy of the complaint promptly after the complaint is filed by or received by the patrol. Unless the member consents in writing to an earlier time, the member shall not be questioned by the patrol about the complaint or ordered to respond in writing to the complaint until forty-eight hours after the member has received a copy of the complaint. The member shall have a reasonable opportunity to have counsel present during any questioning related to the complaint. Prior to the commissioner or the patrol making an initial recommendation of discipline, the member shall be entitled to a copy of any investigation reports and any other written or recorded information or other evidence reviewed by the patrol which relates to the complaint; and the member will be afforded an opportunity to present a written response thereto.

3. Notwithstanding the provisions of this subsection or subsection 2 of this section to the contrary, the commissioner may postpone notifying a member that a complaint has been filed against him or her and may withhold the complaint and part or all of the investigation report and other evidence if the commissioner determines that such disclosures shall seriously interfere with the investigation regarding such complaint or any other investigation being conducted by the patrol or may likely jeopardize the health or safety of any person. Nothing in this subsection shall be construed to limit the rights of parties to discovery in civil or criminal litigation.]

Approved June 30, 2010

HB 1892 [SCS HB 1892]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes certain specified individuals in addition to the school superintendent to issue a student work certificate

AN ACT to repeal section 294.045, RSMo, and to enact in lieu thereof one new section relating to work certificates.

SECTION

A. Enacting clause.

294.045. Superintendent of schools to issue work certificates.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 294.045, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 294.045, to read as follows:

294.045. SUPERINTENDENT OF SCHOOLS TO ISSUE WORK CERTIFICATES. — [The work certificates shall be issued and signed by or under the direction of] **1. Notwithstanding any other law, any of the following individuals may issue a work certificate to a child subject to the requirements of this chapter:**

- (1) The superintendent of public schools of the district in which the child resides;
- (2) The chief executive officer, or the equivalent position, of a charter school that the child attends;
- (3) A person holding a student services certificate who is authorized by the superintendent of the school district or chief executive officer in writing;
- (4) Subject to the requirements and conditions of paragraphs (a), (b), and (c) of this subdivision inclusive, the principal of a public or private school may issue, or designate another administrator of the school to issue, work certificates to children who attend the school. If the principal of a public or private school chooses not to issue work certificates under this subdivision, work certificates may be issued to children attending school under subdivision (1) or (3) of this subsection;
 - (a) A principal who issues a work certificate under this subdivision shall provide a self-certification that he or she understands the requirements in existing law for issuing a work certificate. The principal shall submit a copy of each work certificate he or she issues along with a copy of the application for each work certificate to the superintendent of the school district in which the school is located;
 - (b) The superintendent of a school district may revoke a work certificate issued by the principal of a public or private school located within the district if the superintendent becomes aware of any grounds upon which the child may be deemed ineligible for a work certificate under existing law;
 - (c) An individual with authority to issue a work certificate under this subdivision shall not issue a work certificate to his or her own child, except that any student, solely enrolled in a course of education not otherwise prohibited under chapter 167 whose parent, legal guardian, or designated private tutor is the student's primary education provider and is also the primary individual responsible for the student's education program and schedule, shall be issued a work certificate by such primary education provider.

2. If the certificated person designated to issue work certificates by the superintendent of a school district or the chief executive officer, or the equivalent position, of a charter school is not available, and delay in issuing a certificate would jeopardize the ability of a child to secure work, another person authorized by the superintendent of the school district or the chief executive officer, or the equivalent position, of a charter school may issue the work certificate.

3. If a school district or charter school does not employ or contract with a person holding a student services certificate, the superintendent of the school district or the chief executive officer, or the equivalent position, of a charter school may authorize, in writing, a person who does not hold that credential to issue work certificates during periods of time in which the superintendent is absent from the district or the chief executive officer is absent from the charter school.

4. Notwithstanding the hour limitations imposed by this chapter or any other provision of law, the hour limitations that apply to a work certificate issued by any of the individuals described in subsection 1 of this section shall be based on the school calendar of the school the child attends.

Approved July 12, 2010

HB 1893 [SS#2 HCS HB 1893]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the distribution of gaming funds for early childhood education and veterans' programs and requires an annual audit to be conducted on the fund accounts for three years

AN ACT to repeal section 313.835, RSMo, and to enact in lieu thereof three new sections relating to excursion gambling boats.

SECTION

- A. Enacting clause.
- 42.300. Fund created, use of moneys — interest — appropriation of moneys to another fund — audit of fund.
- 161.215. Early childhood development, education and care fund created, purpose, use of moneys — rulemaking authority — audit.
- 313.835. Gaming commission fund created, purpose, expenditures — disposition of proceeds of gaming commission fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 313.835, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 42.300, 161.215, and 313.835, to read as follows:

42.300. FUND CREATED, USE OF MONEYS — INTEREST — APPROPRIATION OF MONEYS TO ANOTHER FUND — AUDIT OF FUND. — 1. There is hereby created in the state treasury the "Veterans Commission Capital Improvement Trust Fund" which shall consist of money collected under section 313.835. The state treasurer shall administer the veterans commission capital improvement trust fund, and the moneys in such fund shall be used solely, upon appropriation, by the Missouri veterans commission for:

(1) The construction, maintenance or renovation or equipment needs of veterans homes in this state;

(2) The construction, maintenance, renovation, equipment needs and operation of veterans cemeteries in this state;

(3) Fund transfers to Missouri veterans' homes fund established under the provisions of section 42.121, as necessary to maintain solvency of the fund;

(4) Fund transfers to any municipality with a population greater than four hundred thousand and located in part of a county with a population greater than six hundred thousand in this state which has established a fund for the sole purpose of the restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I. Appropriations from the veterans commission capital improvement trust fund to such memorial fund shall be provided only as a one-time match for other funds devoted to the project and shall not exceed five million dollars. Additional appropriations not to exceed ten million dollars total may be made from the veterans commission capital improvement

trust fund as a match to other funds for the new construction or renovation of other facilities dedicated as veterans memorials in the state. All appropriations for renovation, new construction, reconstruction, and maintenance of veterans memorials shall be made only for applications received by the Missouri veterans commission prior to July 1, 2004;

(5) The issuance of matching fund grants for veterans service officer programs to any federally chartered veterans organization or municipal government agency that is certified by the Veterans Administration to process veteran claims within the Veterans Administration System; provided that such veterans organization has maintained a veterans service officer presence within the state of Missouri for the three-year period immediately preceding the issuance of any such grant. A total of one million five hundred thousand dollars in grants shall be made available annually for service officers and joint training and outreach between veterans service organizations and the Missouri veterans commission with grants being issued in July of each year. Application for the matching grants shall be made through and approved by the Missouri veterans commission based on the requirements established by the commission;

(6) For payment of Missouri national guard and Missouri veterans commission expenses associated with providing medals, medallions and certificates in recognition of service in the armed forces of the United States during World War II, the Korean Conflict, and the Vietnam War under sections 42.170 to 42.226. Any funds remaining from the medals, medallions and certificates shall not be transferred to any other fund and shall only be utilized for the awarding of future medals, medallions, and certificates in recognition of service in the armed forces; and

(7) Fund transfers totaling ten million dollars to any municipality with a population greater than three hundred fifty thousand inhabitants and located in part in a county with a population greater than six hundred thousand inhabitants and with a charter form of government, for the sole purpose of the construction, restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I.

2. Any interest which accrues to the fund shall remain in the fund and shall be used in the same manner as moneys which are transferred to the fund under this section. Notwithstanding the provisions of section 33.080, to the contrary, moneys in the veterans commission capital improvement trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

3. Upon request by the veterans commission, the general assembly may appropriate moneys from the veterans commission capital improvements trust fund to the Missouri national guard trust fund to support the activities described in section 41.958.

4. The state auditor shall conduct an audit of all moneys in the veterans' commission capital improvement trust fund every year beginning January 1, 2011, and ending on December 31, 2013. The findings of each audit shall be distributed to the general assembly, governor, and lieutenant governor no later than ten business days after the completion of such audit.

161.215. EARLY CHILDHOOD DEVELOPMENT, EDUCATION AND CARE FUND CREATED, PURPOSE, USE OF MONEYS — RULEMAKING AUTHORITY — AUDIT. — 1. There is hereby created in the state treasury the "Early Childhood Development, Education and Care Fund" which shall consist of money collected under section 313.835 and which is created to give parents meaningful choices and assistance in choosing the child-care and education arrangements that are appropriate for their family. All interest received on the fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, moneys in the fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. Any moneys deposited in such fund shall be used to support programs that prepare children prior to the age in which they are eligible to enroll in kindergarten, under section 160.053 to enter school ready to learn. All moneys deposited in the early

childhood development, education and care fund shall be annually appropriated for voluntary, early childhood development, education and care programs serving children in every region of the state not yet enrolled in kindergarten.

2. No less than sixty percent of moneys deposited in the early childhood development, education and care fund shall be appropriated as provided in this subsection to the department of elementary and secondary education and to the department of social services to provide early childhood development, education and care programs through competitive grants to, or contracts with, governmental or private agencies. Eighty percent of such moneys under the provisions of this subsection and additional moneys as appropriated by the general assembly shall be appropriated to the department of elementary and secondary education and twenty percent of such moneys under the provisions of this subsection shall be appropriated to the department of social services. The departments shall provide public notice and information about the grant process to potential applicants:

- (1) Grants or contracts may be provided for:
 - (a) Start-up funds for necessary materials, supplies, equipment and facilities; and
 - (b) Ongoing costs associated with the implementation of a sliding parental fee schedule based on income;
- (2) Grant and contract applications shall, at a minimum, include:
 - (a) A funding plan which demonstrates funding from a variety of sources including parental fees;
 - (b) A child development, education and care plan that is appropriate to meet the needs of children;
 - (c) The identity of any partner agencies or contractual service providers;
 - (d) Documentation of community input into program development;
 - (e) Demonstration of financial and programmatic accountability on an annual basis;
 - (f) Commitment to state licensure within one year of the initial grant, if funding comes from the appropriation to the department of elementary and secondary education and commitment to compliance with the requirements of the department of social services, if funding comes from the department of social services; and
 - (g) With respect to applications by public schools, the establishment of a parent advisory committee within each public school program;
- (3) In awarding grants and contracts under this subdivision, the departments may give preference to programs which:
 - (a) Are new or expanding programs which increase capacity;
 - (b) Target geographic areas of high need, namely where the ratio of program slots to children under the age of six in the area is less than the same ratio statewide;
 - (c) Are programs designed for special needs children;
 - (d) Are programs that offer services during nontraditional hours and weekends; or
 - (e) Are programs that serve a high concentration of low-income families.

3. No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide early childhood development, education and care programs through child development, education and care certificates to families whose income does not exceed one hundred eighty-five percent of the federal poverty level in the manner pursuant to 42 U.S.C. Section 9858c(c)(2)(A) and 42 U.S.C. Section 9858n(2) for the purpose of funding early childhood development, education and care programs as approved by the department of social services. At a minimum, the certificate shall be of a value per child which is commensurate with the per-child payment under paragraph (b) of subdivision (1) of subsection 2 of this section pertaining to the grants or contracts. On February first of each year the department shall certify the total amount of child development, education and care certificates applied for and the unused balance of the funds shall be released to

be used for supplementing the competitive grants and contracts program authorized under subsection 2 of this section.

4. No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to increase reimbursements to child-care facilities for low-income children that are accredited by a recognized, early childhood accrediting organization.

5. No less than ten percent of the funds deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide assistance to eligible parents whose family income does not exceed one hundred eighty-five percent of the federal poverty level who wish to care for their children under three years of age in the home, to enable such parent to take advantage of early childhood development, education and care programs for such parent's child or children. At a minimum, the certificate shall be of a value per child which is commensurate with the per-child payment under paragraph (b) of subdivision (1) of subsection 2 of this section pertaining to the grants or contracts. The department of social services shall provide assistance to these parents in the effective use of early childhood development, education and care tools and methods.

6. In setting the value of parental certificates under subsection 3 of this section and payments under subsection 5 of this section, the department of social services may increase the value based on the following:

(1) The adult caretaker of the children successfully participates in the parents as teachers program under the provisions of sections 178.691 to 178.699, a training program provided by the department on early childhood development, education and care, the home-based Head Start program as defined in 42 U.S.C. Section 9832 or a similar program approved by the department;

(2) The adult caretaker consents to and clears a child abuse or neglect screening under subdivision (1) of subsection 2 of section 210.152; and

(3) The degree of economic need of the family.

7. The department of elementary and secondary education and the department of social services each shall by rule promulgated under chapter 536, establish guidelines for the implementation of the early childhood development, education and care programs as provided in subsections 2 to 6 of this section.

8. The state auditor shall conduct an audit of all moneys in the early childhood development, education and care fund created in subsection 1 of this section every year beginning January 1, 2011, and ending on December 31, 2013. The findings of each audit shall be distributed to the general assembly no later than ten business days after the completion of such audit.

9. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

313.835. GAMING COMMISSION FUND CREATED, PURPOSE, EXPENDITURES — DISPOSITION OF PROCEEDS OF GAMING COMMISSION FUND. — [1.] All revenue received by the commission from license fees, penalties, administrative fees, reimbursement by any excursion gambling boat operators for services provided by the commission and admission fees authorized pursuant to the provisions of sections 313.800 to 313.850, except that portion of the admission fee, not to exceed one cent, that may be appropriated to the compulsive gamblers fund as

provided in section 313.820, shall be deposited in the state treasury to the credit of the "Gaming Commission Fund" which is hereby created for the sole purpose of funding the administrative costs of the commission, subject to appropriation. Moneys deposited into this fund shall not be considered proceeds of gambling operations. Moneys deposited into the gaming commission fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming commission fund shall be credited to the gaming commission fund. In each fiscal year, total revenues to the gaming commission fund for the preceding fiscal year shall be compared to total expenditures and transfers from the gaming commission fund for the preceding fiscal year. The remaining net proceeds in the gaming commission fund shall be distributed in the following manner:

(1) The first five hundred thousand dollars shall be appropriated on a per capita basis to cities and counties that match the state portion and have demonstrated a need for funding community neighborhood organization programs for the homeless and to deter gang-related violence and crimes;

(2) [The remaining net proceeds in the gaming commission fund for fiscal year 1998 and prior years shall be transferred to the "Veterans' Commission Capital Improvement Trust Fund", as hereby created in the state treasury. The state treasurer shall administer the veterans' commission capital improvement trust fund, and the moneys in such fund shall be used solely, upon appropriation, by the Missouri veterans' commission for:

(a) The construction, maintenance or renovation or equipment needs of veterans' homes in this state;

(b) The construction, maintenance, renovation, equipment needs and operation of veterans' cemeteries in this state;

(c) Fund transfers to Missouri veterans' homes fund established pursuant to the provisions of section 42.121, RSMo, as necessary to maintain solvency of the fund;

(d) Fund transfers to any municipality with a population greater than four hundred thousand and located in part of a county with a population greater than six hundred thousand in this state which has established a fund for the sole purpose of the restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I. Appropriations from the veterans' commission capital improvement trust fund to such memorial fund shall be provided only as a one-time match for other funds devoted to the project and shall not exceed five million dollars. Additional appropriations not to exceed ten million dollars total may be made from the veterans' commission capital improvement trust fund as a match to other funds for the new construction or renovation of other facilities dedicated as veterans' memorials in the state. All appropriations for renovation, new construction, reconstruction, and maintenance of veterans' memorials shall be made only for applications received by the Missouri veterans' commission prior to July 1, 2004;

(e) The issuance of matching fund grants for veterans' service officer programs to any federally chartered veterans' organization or municipal government agency that is certified by the Veterans Administration to process veteran claims within the Veterans Administration System; provided that such veterans' organization has maintained a veterans' service officer presence within the state of Missouri for the three-year period immediately preceding the issuance of any such grant. A total of one million dollars in grants shall be made available annually with grants being issued in July of each year. Application for the matching grants shall be made through and approved by the Missouri veterans' commission based on the requirements established by the commission;

(f) For payment of Missouri national guard and Missouri veterans' commission expenses associated with providing medals, medallions and certificates in recognition of service in the armed forces of the United States during World War II and the Korean Conflict pursuant to sections 42.170 to 42.206, RSMo. Any funds remaining from the medals, medallions and certificates shall not be transferred to any other fund and shall only be utilized for the awarding of future medals, medallions, and certificates in recognition of service in the armed forces; and

(g) Fund transfers totaling ten million dollars to any municipality with a population greater than three hundred fifty thousand inhabitants and located in part in a county with a population greater than six hundred thousand inhabitants and with a charter form of government, for the sole purpose of the construction, restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I. Any interest which accrues to the fund shall remain in the fund and shall be used in the same manner as moneys which are transferred to the fund pursuant to this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the veterans' commission capital improvement trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund;

(3)] The remaining net proceeds in the gaming commission fund for fiscal year 1999 and each fiscal year thereafter shall be distributed as follows:

(a) The first four and one-half million dollar portion shall be transferred to the access Missouri financial assistance fund, established pursuant to the provisions of sections 173.1101 to 173.1107, RSMo, and additional moneys as annually appropriated by the general assembly shall be appropriated to such fund;

(b) The second three million dollar portion shall be transferred to the veterans' commission capital improvement trust fund **created in section 42.300**;

(c) The third three million dollar portion shall be transferred to the Missouri national guard trust fund created in section 41.214, RSMo;

(d) Subject to appropriations, one hundred percent of remaining net proceeds in the gaming commission fund except as provided in [paragraph (l)] **paragraphs (e) and (f)** of this subdivision, and after the appropriations made pursuant to the provisions of paragraphs (a), (b), and (c) of this subdivision, shall be transferred to the ["Early Childhood Development, Education and Care Fund" which is hereby created to give parents meaningful choices and assistance in choosing the child-care and education arrangements that are appropriate for their family. All interest received on the fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. Any moneys deposited in such fund shall be used to support programs that prepare children prior to the age in which they are eligible to enroll in kindergarten, pursuant to section 160.053, RSMo, to enter school ready to learn. All moneys deposited in the early childhood development, education and care fund shall be annually appropriated for voluntary, early childhood development, education and care programs serving children in every region of the state not yet enrolled in kindergarten;

(e) No less than sixty percent of moneys deposited in the early childhood development, education and care fund shall be appropriated as provided in this paragraph to the department of elementary and secondary education and to the department of social services to provide early childhood development, education and care programs through competitive grants to, or contracts with, governmental or private agencies. Eighty percent of such moneys pursuant to the provisions of this paragraph and additional moneys as appropriated by the general assembly shall be appropriated to the department of elementary and secondary education and twenty percent of such moneys pursuant to the provisions of this paragraph shall be appropriated to the department of social services. The departments shall provide public notice and information about the grant process to potential applicants:

a. Grants or contracts may be provided for:

(i) Start-up funds for necessary materials, supplies, equipment and facilities; and

(ii) Ongoing costs associated with the implementation of a sliding parental fee schedule based on income;

b. Grant and contract applications shall, at a minimum, include:

(i) A funding plan which demonstrates funding from a variety of sources including parental fees;

(ii) A child development, education and care plan that is appropriate to meet the needs of children;

- (iii) The identity of any partner agencies or contractual service providers;
- (iv) Documentation of community input into program development;
- (v) Demonstration of financial and programmatic accountability on an annual basis;
- (vi) Commitment to state licensure within one year of the initial grant, if funding comes from the appropriation to the department of elementary and secondary education and commitment to compliance with the requirements of the department of social services, if funding comes from the department of social services; and

- (vii) With respect to applications by public schools, the establishment of a parent advisory committee within each public school program;

c. In awarding grants and contracts pursuant to this paragraph, the departments may give preference to programs which:

- (i) Are new or expanding programs which increase capacity;
- (ii) Target geographic areas of high need, namely where the ratio of program slots to children under the age of six in the area is less than the same ratio statewide;
- (iii) Are programs designed for special needs children;
- (iv) Are programs that offer services during nontraditional hours and weekends; or
- (v) Are programs that serve a high concentration of low-income families;

d. Beginning on August 28, 1998, the department of elementary and secondary education and the department of social services shall initiate and conduct a four-year study to evaluate the impact of early childhood development, education and care in this state. The study shall consist of an evaluation of children eligible for moneys pursuant to this paragraph, including an evaluation of the early childhood development, education and care of those children participating in such program and those not participating in the program over a four-year period. At the conclusion of the study, the department of elementary and secondary education and the department of social services shall, within ninety days of conclusion of the study, submit a report to the general assembly and the governor, with an analysis of the study required pursuant to this subparagraph, all data collected, findings, and other information relevant to early childhood development, education and care;

(f) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide early childhood development, education and care programs through child development, education and care certificates to families whose income does not exceed one hundred eighty-five percent of the federal poverty level in the manner pursuant to 42 U.S.C. 9858c(c)(2)(A) and 42 U.S.C. 9858n(2) for the purpose of funding early childhood development, education and care programs as approved by the department of social services. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. On February first of each year the department shall certify the total amount of child development, education and care certificates applied for and the unused balance of the funds shall be released to be used for supplementing the competitive grants and contracts program authorized pursuant to paragraph (e) of this subdivision;

(g) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to increase reimbursements to child-care facilities for low-income children that are accredited by a recognized, early childhood accrediting organization;

(h) No less than ten percent of the funds deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide assistance to eligible parents whose family income does not exceed one hundred eighty-five percent of the federal poverty level who wish to care for their children under three years of age in the home, to enable such parent to take advantage of early childhood development, education and care programs for such parent's child or children. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of

subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. The department of social services shall provide assistance to these parents in the effective use of early childhood development, education and care tools and methods;

(i) In setting the value of parental certificates under paragraph (f) of this subdivision and payments under paragraph (h) of this subdivision, the department of social services may increase the value based on the following:

a. The adult caretaker of the children successfully participates in the parents as teachers program pursuant to the provisions of sections 178.691 to 178.699, RSMo, a training program provided by the department on early childhood development, education and care, the home-based Head Start program as defined in 42 U.S.C. 9832 or a similar program approved by the department;

b. The adult caretaker consents to and clears a child abuse or neglect screening pursuant to subdivision (1) of subsection 2 of section 210.152, RSMo; and

c. The degree of economic need of the family;

(j) The department of elementary and secondary education and the department of social services each shall by rule promulgated pursuant to chapter 536, RSMo, establish guidelines for the implementation of the early childhood development, education and care programs as provided in paragraphs (e) through (i) of this subdivision;

(k) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in paragraph (j) of this subdivision shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998] **early childhood development, education and care fund created in section 161.215;**

[~~(l)~~] (e) When the remaining net proceeds, as such term is used pursuant to paragraph (d) of this subdivision, in the gaming commission fund annually exceeds twenty-eight million dollars: one-half million dollars of such proceeds shall be transferred annually, subject to appropriation, to the access Missouri financial assistance fund, established pursuant to the provisions of sections 173.1101 to 173.1107], RSMo]; three million dollars of such proceeds shall be transferred annually, subject to appropriation, to the veterans' commission capital improvement trust fund; and one million dollars of such proceeds shall be transferred annually, subject to appropriation, to the Missouri national guard trust fund created in section 41.214], RSMo] ;

(f) Beginning in fiscal year 2011 and each fiscal year thereafter when the funding for early childhood education under paragraph (d) of this subdivision equals the funding level for early childhood education under paragraph (d) of this subdivision in fiscal year 2009, one half of the next one million two hundred thousand dollars of such proceeds shall be transferred annually, subject to appropriation, to the Veterans commission capital improvement trust fund for the purpose of funding veterans service officer programs identified under subdivision (5) of subsection 1 of section 42.300, and the other half of the one million two hundred thousand dollars shall be transferred annually, subject to appropriation, to the early childhood development, education and care fund created in section 161.215.

[2. Upon request by the veterans' commission, the general assembly may appropriate moneys from the veterans' commission capital improvements trust fund to the Missouri national guard trust fund to support the activities described in section 41.958, RSMo.]

Approved May 27, 2010

HB 1894 [HB 1894]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding mental health services

AN ACT to repeal sections 208.453, 630.060, and 630.220, RSMo, and to enact in lieu thereof three new sections relating to certain mental health services.

SECTION

- A. Enacting clause.
- 208.453. Hospitals to pay a federal reimbursement allowance for privilege of providing inpatient care, defined — elimination of allowance for certain hospitals.
- 630.060. Cooperation with other groups.
- 630.220. Court actions by department on behalf of institutions — interest on accounts of patients.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.453, 630.060, and 630.220, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 208.453, 630.060, and 630.220, to read as follows:

208.453. HOSPITALS TO PAY A FEDERAL REIMBURSEMENT ALLOWANCE FOR PRIVILEGE OF PROVIDING INPATIENT CARE, DEFINED — ELIMINATION OF ALLOWANCE FOR CERTAIN HOSPITALS. — Every hospital as defined by section 197.020, RSMo, except [public hospitals which are operated primarily for the care and treatment of mental disorders and] any hospital operated by the department of health and senior services, shall, in addition to all other fees and taxes now required or paid, pay a federal reimbursement allowance for the privilege of engaging in the business of providing inpatient health care in this state. For the purpose of this section, the phrase "engaging in the business of providing inpatient health care in this state" shall mean accepting payment for inpatient services rendered. The federal reimbursement allowance to be paid by a hospital which has an unsponsored care ratio that exceeds sixty-five percent or hospitals owned or operated by the board of curators, as defined in chapter 172, RSMo, may be eliminated by the director of the department of social services. The unsponsored care ratio shall be calculated by the department of social services.

630.060. COOPERATION WITH OTHER GROUPS. — **1.** The department shall seek and encourage cooperation and active participation of communities, counties, organizations, agencies, private and not-for-profit corporations and individuals in the effort to establish and maintain quality programs and services for persons affected by mental disorders, developmental disabilities or alcohol or drug abuse. The department shall develop programs of public information and education for this purpose.

2. The department shall cooperate with and may directly contract with all state agencies, local units of government, and any of the governor's advisory councils or commissions, or their successor agencies, and with the Missouri Mental Health

Foundation, or its successor entity, in delivery of programs designed to improve public understanding of attitudes toward mental disorders, developmental disabilities, and alcohol and drug abuse pursuant to subdivision (3) of subsection 1 of section 630.020. For purposes of this section, the contracting process of the department with these entities need not be governed by the provisions of chapter 34.

630.220. COURT ACTIONS BY DEPARTMENT ON BEHALF OF INSTITUTIONS—INTEREST ON ACCOUNTS OF PATIENTS. — For all debts and demands whatsoever to any of the residential facilities or day programs subject to the control of the department, and for all damages for failure of contract, for trespass and other wrongs to a facility operated by the department, or any of its property thereof, real or personal, actions in any court of competent jurisdiction may be maintained in the name of the director. Interest shall be recovered on any and all sums due any facility or program operated or funded by the department on account of any patient or resident thereof, the account therefor, certified by the [head of the facility, with the seal of the institution attached,] **director or the director's designee** shall be prima facie evidence of the amount due.

Approved July 7, 2010

HB 1898 [HCS HB 1898]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Women's Heart Health Program to provide heart disease risk screenings to certain uninsured and underinsured women

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to the women's heart health program.

SECTION

A. Enacting clause.

191.425. Program established, eligibility — contracting authority — conditional on receipt of federal funding.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.425, to read as follows:

191.425. PROGRAM ESTABLISHED, ELIGIBILITY — CONTRACTING AUTHORITY — CONDITIONAL ON RECEIPT OF FEDERAL FUNDING. — **1. Upon receipt of federal funding in accordance with subsection 4 of this section, there is hereby established within the department of health and senior services the "Women's Heart Health Program" to provide heart disease risk screening to uninsured and underinsured women.**

2. The following women shall be eligible for program services:

- (1) Women between the ages of 35 and 64 years;**
 - (2) Women who are receiving breast and cervical cancer screenings under the Missouri show me healthy women program;**
 - (3) Women who are uninsured or whose insurance does not provide coverage for heart disease risk screenings; and**
 - (4) Women with a gross family income at or below two hundred percent of the federal poverty level.**
-

3. The department shall contract with health care providers who are currently providing services under the Missouri show me healthy women program, to provide screening services under the women's heart health program. Screening shall include, but not be limited to height, weight, and body mass index (BMI), blood pressure, total cholesterol, HDL, and blood glucose. Any woman whose screening indicates an increased risk for heart disease shall be referred for appropriate follow-up health care services and be offered lifestyle education services to reduce her risk for heart disease.

4. The women's heart health program shall be subject to receipt of federal funding which designates such funding for heart disease risk screening to uninsured and underinsured women. In the event that federal funds are not available for such program, the department shall not be required to establish or implement the program.

Approved June 25, 2010

HB 1941 [SCS HB 1941]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates various highways, a pedestrian and bicycle lane, and a bridge

AN ACT to repeal sections 227.303, 227.313, and 227.409, RSMo, and to enact in lieu thereof thirteen new sections relating to memorial highway designations.

SECTION

- A. Enacting clause.
- 227.303. Mark Twain Highway established, interstate highway 70.
- 227.313. Dr. Martin Luther King Jr. Memorial Mile designated for portion of Highway 266 in Greene County.
- 227.324. Pat Jones pedestrian/bicycle lane designated on the Missouri River Bridge in Jefferson City.
- 227.365. Dave Sinclair Memorial Highway designated for a portion of Lindbergh Boulevard in St. Louis County.
- 227.391. Gene Curtis Memorial Highway designated for a portion of Highway 80 in New Madrid County.
- 227.405. Police Officer Ernest M. Brockman Sr. Memorial Highway designated for a portion of I-44 in St. Louis County.
- 227.408. Johnny Lee Hays Memorial Highway designated for a portion of State Highway 53 in Butler County.
- 227.409. Jack Buck Memorial Highway designated for portion of Interstate I-64/US 40.
- 227.412. Sergeant Charles R. Long Memorial Bridge designated for a bridge crossing on U. S. Highway 24 in Independence,
- 227.413. Harry S. Truman Memorial Highway designated for a portion of U.S. Highway 24 in Jackson County.
- 227.414. Mo. Hwy. Patrolman Corporal Dennis E. Engelhard Memorial Highway designated for a portion of I-44 in Franklin County.
- 227.415. Missouri State Trooper William Brandy Memorial Highway designated for a portion of Highway 36 in Macon County.
- 227.416. John Playter Memorial Highway designated for a portion of Highway 13 in Polk County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 227.303, 227.313, and 227.409, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 227.303, 227.313, 227.324, 227.365, 227.391, 227.405, 227.408, 227.409, 227.412, 227.413, 227.414, 227.415, and 227.416, to read as follows:

227.303. MARK TWAIN HIGHWAY ESTABLISHED, INTERSTATE HIGHWAY 70. — The portion of interstate highway 70 within a city not within a county to the border with the state of Illinois shall be designated the "Mark [McGwire] **Twain** Highway".

227.313. DR. MARTIN LUTHER KING JR. MEMORIAL MILE DESIGNATED FOR PORTION OF HIGHWAY 266 IN GREENE COUNTY. — The portion of Missouri Highway 266 located in Greene County from [North Missouri Road AB] **Airport Boulevard** to one mile east shall be designated as the "Dr. Martin Luther King Jr. Memorial Mile". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donations.

227.324. PAT JONES PEDESTRIAN/BICYCLE LANE DESIGNATED ON THE MISSOURI RIVER BRIDGE IN JEFFERSON CITY. — The pedestrian and bicycle lane on the southern-most, down stream U.S. Highway 54 bridge, crossing the Missouri River at Jefferson City, Missouri, in Cole County, shall, upon completion of its construction, be designated as the "Pat Jones Pedestrian/Bicycle Lane". The department of transportation shall erect and maintain appropriate signs designating such pedestrian and bicycle lane, with the costs to be paid for by private donations.

227.365. DAVE SINCLAIR MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF LINDBERGH BOULEVARD IN ST. LOUIS COUNTY. — The portion of Lindbergh Boulevard located in St. Louis County, from its intersection with Lemay Ferry Road, to the highway's connection with Barracksview Road, shall be designated as the "Dave Sinclair Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donations.

227.391. GENE CURTIS MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 80 IN NEW MADRID COUNTY — The portion of Highway 80 in New Madrid County from the intersection of Highways 61, 80, and H, east to Interstate 55 shall be designated the "Gene Curtis Memorial Highway". Costs for such designation shall be paid by private donation.

227.405. POLICE OFFICER ERNEST M. BROCKMAN SR. MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-44 IN ST. LOUIS COUNTY. — The portion of Interstate 44 in St. Louis County beginning from its intersection with South Geyer Road and proceeding east to its intersection with South Elm Avenue shall be designated the "Police Officer Ernest M. Brockman Sr. Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.408. JOHNNY LEE HAYS MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE HIGHWAY 53 IN BUTLER COUNTY. — The portion of state highway 53 in Butler County from the city limits of Qulin to one mile south of the city limits shall be designated the "Johnny Lee Hays Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.409. JACK BUCK MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE I-64/US 40. — [The portion of Interstate Highway I-64/US 40 from the McCausland/Skinker interchange east to the I-64/I-55 interchange shall be designated the "Jack Buck Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway designation, with the cost to be paid for by private donation] The portion of Interstate Highway I-64/US 40 from the McCausland/Skinker interchange east to the I-64/I-55 interchange shall be designated the "Jack Buck Memorial

Highway". The department of transportation shall erect and maintain appropriate signs designating such highway designation, with the cost to be paid for by private donation.

227.412. SERGEANT CHARLES R. LONG MEMORIAL BRIDGE DESIGNATED FOR A BRIDGE CROSSING ON U. S. HIGHWAY 24 IN INDEPENDENCE, — The bridge crossing over the Union Pacific Railroad located on U.S. Highway 24 near Wilson Road in the Fairmont Business District of the City of Independence in Jackson County shall be designated the "Sergeant Charles R. Long Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such bridge, with the costs to be paid for by private donations.

227.413. HARRY S. TRUMAN MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 24 IN JACKSON COUNTY. — The portion of U.S. Highway 24 in Jackson County from the bridge crossing over the Union Pacific Railroad in the Fairmont Business District of the City of Independence to the intersection of Noland Road shall be designated the "Harry S Truman Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.414. MO. HWY. PATROLMAN CORPORAL DENNIS E. ENGELHARD MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-44 IN FRANKLIN COUNTY. — The portion of Interstate 44 located in Franklin County from the Highway 100 overpass west to the St. Mary's Road overpass shall be designated as the "Mo. Hwy. Patrolman Corporal Dennis E. Engelhard Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.415. MISSOURI STATE TROOPER WILLIAM BRANDY MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 36 IN MACON COUNTY. — The portion of Highway 36, 1.7 miles west of the intersection of Highway 36 and Route O in Macon County shall be designated as the "Missouri State Trooper William Brandt Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.416. JOHN PLAYTER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 13 IN POLK COUNTY. — The portion of Highway 13 from the intersection of Highway 32 to the intersection of Highway 83 in Polk County shall be designated the "John Playter Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donation.

Approved July 12, 2010

HB 1942 [HB 1942]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes requirements for the emergency telephone service 911 board in Polk County and requires emergency service boards to annually establish a tax rate sufficient to fund service expenditures

AN ACT to repeal sections 190.309, 190.335, and 190.339, RSMo, and to enact in lieu thereof three new sections relating to emergency service boards.

SECTION

- A. Enacting clause.
- 190.309. Emergency telephone board, powers and duties — members of the board, appointment, terms — personnel — officers — rules — removal of members — vacancies — nepotism prohibited.
- 190.335. Central dispatch for emergency services, alternative funding by county sales tax, procedure, ballot form, rate of tax — collection, limitations — adoption of alternate tax, telephone tax to expire, when — board appointment and election, qualification, terms — continuation of board in Greene County — board appointment in Christian County.
- 190.339. Emergency services board, powers and duties — officers — removal of board members, reasons, hearing procedure — vacancies — employment by board, limitations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 190.309, 190.335, and 190.339, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 190.309, 190.335, and 190.339, to read as follows:

190.309. EMERGENCY TELEPHONE BOARD, POWERS AND DUTIES — MEMBERS OF THE BOARD, APPOINTMENT, TERMS — PERSONNEL — OFFICERS — RULES — REMOVAL OF MEMBERS — VACANCIES — NEPOTISM PROHIBITED. — 1. Any county may establish an "Emergency Telephone Service 911 Board", referred to in this section as the "board". The powers and duties of the board may be defined by order or ordinance of the county. Such powers shall include, but not be limited to:

- (1) Planning a 911 system;
- (2) Coordinating and supervising the implementation, upgrading, or maintenance of the system, including the establishment of equipment specifications and coding systems;
- (3) Receiving moneys from any emergency telephone service tax levy authorized by the governing body of the county pursuant to section 190.305, and authorizing disbursements from such moneys collected;
- (4) Hiring any staff necessary for the implementation or upgrade of the system.

2. Members of the board shall be appointed by the governing body of the county, and shall be known as the board of directors of the emergency service telephone 911 board. The governing body shall appoint eleven persons to the board. At least six of such members shall represent public safety agencies, **except in any county of the third classification without a township form of government and with more than twenty-six thousand nine hundred but fewer than twenty-seven thousand inhabitants, which shall have at least seven members representing the following public safety agencies:**

- (1) **County sheriff;**
- (2) **County presiding commissioner;**
- (3) **Chief of police of the county seat of the county;**
- (4) **Mayor of the county seat of the county;**
- (5) **President of the fire association of the county;**
- (6) **Chief executive officer of the memorial hospital located in the county seat of the county; and**
- (7) **Director of emergency services of the memorial hospital located in the county seat of the county.**

At least nine of the board members shall be residents of the county described in subsection 1 of this section or a county adjoining such county. All board members shall be appointed to serve for a term of three years, except that of the first board appointed, five members shall be appointed for one-year terms, three members for two-year terms and three members for three-

year terms. Board members may be reappointed. The members of the board shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses.

3. The administrative control and management of the county emergency telephone 911 service shall rest solely with the board, and the board shall employ all necessary personnel, fix their compensation, and provide suitable quarters and equipment for the operation of the facility from funds made available for this purpose. Employees of the board shall be eligible for membership in the Missouri local government employees' retirement system pursuant to sections 70.600 to 70.755, RSMo.

4. The board may contract to provide services relating in whole or in part to emergency telephone 911 service and for such purpose may expend the tax funds or other funds.

5. The board shall elect a chairman, vice chairman, treasurer, and such other officers as it deems necessary for its membership. Before taking office, the treasurer shall furnish a surety bond, in an amount to be determined and in a form to be approved by the board, for the faithful performance of the treasurer's duties and faithful accounting of all moneys that may come into the treasurer's hands. The treasurer shall enter into the surety bond with a surety company authorized to do business in Missouri, and the cost of such bond shall be paid by the board.

6. The board shall set rules for establishment and operation of the emergency 911 system, and shall do all other things necessary to carry out the purposes of sections 190.300 to 190.320.

7. The board may contract with any not-for-profit corporation including any corporation which is incorporated for the purpose of implementing the provisions of sections 190.300 to 190.320.

8. The board may accept any gift of property or money for the use and benefit of the emergency telephone 911 service in the county, and the board is authorized to sell or exchange any such property which the board believes would be to the benefit of the service so long as the proceeds are used exclusively for emergency telephone services. The board shall have exclusive control of all gifts, property or money the board may accept; of all interest or other proceeds which may accrue from the investment of such gifts or money or from the sale of such property; of all tax revenues collected by the county on behalf of the emergency telephone 911 services; and of all other funds granted, appropriated, or loaned to the board by the federal government, the state, or its political subdivisions so long as these resources are used solely to benefit the emergency telephone service in the county.

9. Any board member may, following notice and an opportunity to be heard, be removed from office by a majority vote of the other members of the board for any of the following grounds:

- (1) Failure to attend five consecutive meetings, without good cause;
- (2) Conduct prejudicial to the good order and efficient operation of the emergency telephone service; or
- (3) Neglect of duty.

10. The chairman of the board shall preside at such removal hearing, unless the chairman is the person sought to be removed, in which case the hearing shall be presided over by another member elected by the majority vote of the other board members. All interested parties may present testimony and arguments at such hearing, and the witnesses shall be sworn by oath or affirmation before testifying. Any interested party may, at his or her own expense, record the proceedings.

11. Vacancies on the board occasioned by removals, resignations or otherwise shall be reported by the board chairman to the governing body of the county and shall be filled in like manner as original appointments; except that, if the vacancy occurs during an unexpired term, the appointment shall be for only the unexpired portion of that term.

12. Individual board members shall not be eligible for employment by the board within twelve months of termination of service as a member of the board.

13. No person shall be employed by the board who is related within the fourth degree of consanguinity or affinity to any member of the board.

190.335. CENTRAL DISPATCH FOR EMERGENCY SERVICES, ALTERNATIVE FUNDING BY COUNTY SALES TAX, PROCEDURE, BALLOT FORM, RATE OF TAX — COLLECTION, LIMITATIONS — ADOPTION OF ALTERNATE TAX, TELEPHONE TAX TO EXPIRE, WHEN — BOARD APPOINTMENT AND ELECTION, QUALIFICATION, TERMS — CONTINUATION OF BOARD IN GREENE COUNTY — BOARD APPOINTMENT IN CHRISTIAN COUNTY. — 1. In lieu of the tax levy authorized under section 190.305 for emergency telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as "emergency services", and which may also include the purchase and maintenance of communications and emergency equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of (insert name of county) impose a county sales tax of (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

☐ YES

☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo. The sales tax shall not be collected prior to thirty-six months before operation of the central dispatching of emergency services.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the [governing body] **board** shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The [governing body] **board** shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in this act. Immediately upon making its determination and fixing the rate, the [governing body] **board** shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission

shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, who shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, any other emergency services and the general public. This initial board shall serve until its successor board is duly elected and installed in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large, such member to be the chairman of the board. Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years.

11. Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the first classification with more than two hundred forty thousand three hundred but fewer than two hundred forty thousand four hundred inhabitants, any emergency telephone service 911 board appointed by the county under section 190.309 which is in existence on the date the voters approve a sales tax under this section shall continue to exist and shall have the powers set forth under section 190.339.

12. (1) Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the second classification with more than fifty-four thousand two hundred but fewer than fifty-four thousand three hundred inhabitants that has approved a sales tax under this section, the county commission shall appoint the members of the board to administer the funds and oversee the provision of emergency services in the county.

(2) The board shall consist of seven members appointed without regard to political affiliation. Each member shall be one of the following:

- (a) The head of any of the county's fire protection districts, or a designee;
- (b) The head of any of the county's ambulance districts, or a designee;
- (c) The county sheriff, or a designee;
- (d) The head of any of the police departments in the county, or a designee; and
- (e) The head of any of the county's emergency management organizations, or a designee.

(3) Upon the appointment of the board under this subsection, the board shall have the power provided in section 190.339 and shall exercise all powers and duties exercised by the county commission under this chapter, and the commission shall relinquish all powers and duties relating to the provision of emergency services under this chapter to the board.

190.339. EMERGENCY SERVICES BOARD, POWERS AND DUTIES — OFFICERS — REMOVAL OF BOARD MEMBERS, REASONS, HEARING PROCEDURE — VACANCIES — EMPLOYMENT BY BOARD, LIMITATIONS. — 1. The powers and duties of the emergency services board shall include, but not be limited to:

- (1) Planning a 911 system and dispatching system;
- (2) Coordinating and supervising the implementation, upgrading or maintenance of the system, including the establishment of equipment specifications and coding systems;
- (3) Receiving money from any county sales tax authorized to be levied pursuant to section 190.335 and authorizing disbursements from such moneys collected;
- (4) Hiring any staff necessary for the implementation, upgrade or operation of the system.

2. The board shall be a body corporate and a political subdivision of the state and shall be known as the "..... Emergency Services Board".

3. The administrative control and management of the moneys from any county sales tax authorized to be levied pursuant to section 190.335 and the administrative control and management of the central dispatching of emergency services shall rest solely with the board, and the board shall employ all necessary personnel, affix their compensation and provide suitable quarters and equipment for the operation of the central dispatching of emergency services from the funds available for this purpose.

[3.] **4.** The board may contract to provide services relating in whole or in part to central dispatching of emergency services and for such purpose may expend the tax funds or other funds.

[4.] **5.** The board shall elect a vice chairman, treasurer, secretary and such other officers as it deems necessary. Before taking office, the treasurer shall furnish a surety bond in an amount to be determined and in a form to be approved by the board for the faithful performance of the treasurer's duties and faithful accounting of all moneys that may come into the treasurer's hands. The treasurer shall enter into the surety bond with a surety company authorized to do business in Missouri, and the cost of such bond shall be paid by the board of directors.

[5.] **6.** The board may accept any gift of property or money for the use and benefit of the central dispatching of emergency services, and the board is authorized to sell or exchange any such property which it believes would be to the benefit of the service so long as the proceeds are used exclusively for central dispatching of emergency services. The board shall have exclusive control of all gifts, property or money it may accept; of all interest of other proceeds which may accrue from the investment of such gifts or money or from the sale of such property; of all tax revenues collected by the county on behalf of the central dispatching of emergency services; and of all other funds granted, appropriated or loaned to it by the federal government, the state or its political subdivisions so long as such resources are used solely to benefit the central dispatching of emergency services.

[6.] **7.** Any board member may, following notice and an opportunity to be heard, be removed from any office by a majority vote of the other members of the board for any of the following reasons:

- (1) Failure to attend five consecutive meetings, without good cause;
- (2) Conduct prejudicial to the good order and efficient operation of the central dispatching of emergency services; or
- (3) Neglect of duty.

[7.] **8.** The chairperson of the board shall preside at such removal hearing, unless the chairperson is the person sought to be removed, in which case the hearing shall be presided over by another member elected by a majority vote of the other board members. All interested parties may present testimony and arguments at such hearing, and the witnesses shall be sworn in by oath or affirmation before testifying. Any interested party may, at his or her own expense, record the proceedings.

[8.] **9.** Vacancies on the board occasioned by removals, resignations or otherwise, shall be filled by the remaining members of the board. The appointee or appointees shall act until the next election at which a director or directors are elected to serve the remainder of the unexpired term.

[9.] **10.** Individual board members shall not be eligible for employment by the board within twelve months of termination of service as a member of the board.

[10.] **11.** No person shall be employed by the board who is related within the fourth degree by blood or by marriage to any member of the board.

Approved July 7, 2010

HB 1965 [CCS SCS HCS HB 1965]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Repeals various expired provisions of law, changes the laws regarding certain state publications, and establishes a joint committee on Missouri's future and a committee on accountability

AN ACT to repeal sections 2.030, 3.130, 3.140, 8.190, 11.010, 11.020, 21.811, 21.840, 28.085, 30.220, 31.010, 33.065, 33.285, 33.571, 33.577, 34.065, 34.110, 34.130, 37.005, 42.121, 57.080, 57.130, 60.461, 67.2677, 71.240, 71.730, 71.750, 71.970, 94.030, 94.210, 95.365, 96.300, 96.310, 96.320, 96.330, 96.340, 96.350, 96.360, 96.370, 96.380, 99.799, 99.918, 99.1082, 105.140, 105.983, 115.177, 135.205, 135.207, 135.230, 135.431, 135.433, 135.530, 135.903, 135.953, 137.118, 137.286, 142.800, 142.815, 142.821, 143.171, 152.032, 165.016, 165.018, 170.250, 172.860, 173.005, 173.710, 173.715, 173.718, 173.721, 174.020, 174.266, 178.637, 178.930, 191.362, 192.010, 192.120, 192.255, 192.375, 195.060, 195.400, 195.405, 195.410, 195.415, 195.425, 196.180, 196.725, 196.730, 196.750, 196.755, 196.760, 196.765, 196.770, 196.775, 196.780, 196.785, 196.790, 196.795, 196.800, 196.805, 196.810, 197.305, 197.314, 197.317, 197.318, 197.366, 198.058, 198.087, 198.600, 207.023, 207.040, 207.050, 207.055, 208.344, 208.978, 210.002, 210.111, 210.292, 211.013, 211.015, 215.050, 215.263, 215.340, 215.345, 215.347, 215.349, 215.351, 215.353, 215.355, 217.860, 221.140, 237.200, 253.022, 253.375, 253.406, 260.370, 260.481, 263.210, 278.010, 278.020, 278.030, 278.040, 278.050, 288.090, 301.273, 301.3112, 303.026, 307.176, 307.367, 311.470, 313.008, 313.835, 318.010, 318.020, 318.030, 318.040, 318.050, 318.060, 318.070, 318.080, 318.090, 318.100, 329.028, 340.290, 342.010, 342.020, 374.208, 376.671, 376.990, 386.220, 389.440, 389.450, 389.880, 389.890, 389.895, 400.9-118, 402.225, 454.010, 454.020, 454.030, 454.040, 454.050, 454.060, 454.070, 454.080, 454.090, 454.100, 454.105, 454.110, 454.120, 454.130, 454.140, 454.150, 454.160, 454.170, 454.180, 454.190, 454.200, 454.210, 454.220, 454.230, 454.240, 454.250, 454.260, 454.270, 454.275, 454.280, 454.290, 454.300, 454.310, 454.320, 454.330, 454.340, 454.350, 454.355, 454.360, 454.800, 454.802, 454.804, 454.806, 460.100, 460.250, 488.5345, 490.610, 537.675, 537.684, 620.010, 620.155, 620.156, 620.157, 620.158, 620.160, 620.161, 620.163, 620.164, 620.165, 620.170, 620.173, 620.174, 620.176, 620.1023, 622.020, 622.040, 622.045, 622.050, 622.055, 622.057, 644.054, 644.550, 644.551, and 660.018, RSMo, and section 622.010 as enacted by house committee substitute for senate bill no. 780, eighty-eighth general assembly, second regular session and section 622.010 as enacted by house committee substitute for house bill no. 991, eighty-eighth general assembly, second regular session, and to enact in lieu thereof fifty-three new sections for the sole purpose of repealing expired, sunset, terminated, ineffective, or obsolete statutes, with penalty provisions and a contingent effective date for certain sections.

SECTION

- A. Enacting clause.
- 2.030. Legislative research printing and binding of laws.
- 3.130. Committee to determine number of copies — distribution.
- 3.140. Sale of revised statutes, procedure for — cost, how determined.
- 11.010. Official manual.
- 11.020. State manual — contents — electronic distribution.
- 21.920. Committee established, members, terms, duties — report.
- 33.065. Obligations incurred, when.
- 33.850. Joint subcommittee organized, members, duties — annual reports, recommendations — meetings, hearings — expiration date.
- 34.110. Acceptance of gifts to state — purchase of surplus war materials.

- 37.005. Powers and duties, generally.
- 42.121. Funds deposited in the Missouri veterans' homes fund, purpose — fund not to lapse into general revenue.
- 57.080. Vacancy in office, how filled — private person may execute process, when.
- 67.2677. Definitions.
- 99.918. Definitions.
- 99.1082. Definitions.
- 115.177. Registrations in effect January 1, 1978, to remain valid, exception.
- 135.205. Requirements to qualify as enterprise zone.
- 135.207. Satellite zones may be established in certain cities or villages, requirements.
- 135.230. Tax credits and exemptions, maximum period granted — calculation formula — employee requirements, waived or reduced, when — motor carrier, tax credits, conditions — expansion of boundaries of enterprise zone — petition for additional period, qualifications.
- 135.530. Distressed community defined.
- 135.903. Rural empowerment zone criteria — application, zone created, reapplication — limitation.
- 135.953. Enhanced enterprise zone criteria — zone may be established in certain areas — additional criteria.
- 142.800. Definitions.
- 142.815. Exemptions allowed for nonhighway use.
- 143.171. Federal income tax deduction, amount, corporate and individual taxpayers.
- 173.005. Department of higher education created — agencies, divisions, transferred to department — coordinating board, appointment qualifications, terms, compensation, duties, advisory committee, members.
- 174.020. Names of state colleges and universities.
- 178.637. Linn State Technical College deemed qualified for student loans or scholarship program, when.
- 178.930. State aid, computation of — records, kept on premises — sheltered workshop per diem revolving fund created.
- 191.362. Appropriately trained employees to have completed course in dialysis techniques.
- 195.060. Controlled substances to be dispensed on prescription only, exception.
- 195.400. Reports required, exceptions, penalties — person, defined — list of regulated chemicals.
- 197.305. Definitions.
- 197.318. Licensed and available, defined — review of letters of intent — application of law in pending court cases — expansion procedures.
- 197.366. Health care facilities defined.
- 198.058. Certain facilities exempt from construction standards, when.
- 198.087. Uniformity of application of regulation standards, department's duties.
- 215.263. Affordable housing defined, staff to be provided by department of economic development.
- 253.022. Department of natural resources to administer the National Historic Preservation Act.
- 260.370. Duties and powers of commission — rules and regulations to be adopted, procedures — inspection fees, use of, refund, when — variances granted, when.
- 288.090. Contributions required, when — payments in lieu of contributions, procedures — common paymaster arrangements.
- 303.026. Director to notify owners who register vehicles, contents — affidavit certifying financial responsibility required for registration — director may use sampling techniques to verify — verification by owner, time — insurers required to submit policy information to director, format, use, disclosure — violations by insurer, penalty.
- 313.008. Gaming commission bingo fund abolished and transferred to gaming commission fund when, used for certain purposes.
- 313.835. Gaming commission fund created, purpose, expenditures — disposition of proceeds of gaming commission fund.
- 329.028. Board of cosmetology and barber examiners fund created, use of moneys.
- 376.671. Provisions which shall be contained in annuity contracts — inapplicability date.
- 488.5345. Cost of necessary clothing for prisoner, how paid.
- 537.675. Tort victims' compensation fund established — definitions — notification of punitive damage award to attorney general, lien for deposit into fund — legal services for low-income people.
- 537.684. Filing of a claim, determining compensation, procedure — payment of claims.
- 620.010. Department of economic development created — divisions — agencies — boards and commissions — personnel — powers and duties — rules, procedure.
- 620.1023. Business extension service team fund created — qualified community development projects — department's authority to contract directly, purpose — lapse into general revenue prohibited.
- 644.054. Fees, billing and collection — administration, generally — fees to become effective, when — fees to expire, when — variances granted, when.
- 644.551. Additional bonds, principal and interest, how and when paid — repurchase when.
- 8.190. State auditor's duties.
- 21.811. Review of local property tax assessment practices — recommendations to general assembly, when — report to state tax commission.

- 21.840. Joint committee established, members, appointment, terms, duties, meetings — report required — expiration date.
- 28.085. Microfilming service center authorized.
- 30.220. Blank forms for clerks of courts and county officers.
- 31.010. Certain funds created — certain funds abolished.
- 33.285. Budget stabilization fund created — funding appropriations, when — transfer, when — powers of governor and general assembly.
- 33.571. Abolishment of certain funds, balances transferred to general revenue — disbursements — deposits — duties — exemptions.
- 33.577. Cash operating reserve fund, created — moneys deposited in fund — transfers from and to fund without legislative action, when — investment.
- 34.065. Requests for bids made in rotation, when.
- 34.130. State departments to estimate and submit list of annual needs.
- 57.130. Penalties and forfeitures, collection of — expiration date.
- 60.461. Property descriptions not to be recorded unless containing a point within one kilometer of horizontal control station.
- 71.240. Streets and public lands, how vacated — petition — notice.
- 71.730. Inspection of animals intended for food.
- 71.750. Regulation of closing hours, barber and beauty shops.
- 71.970. Cable television facilities, municipalities may own and operate, requirements — public service commission to study economic impact — expiration date.
- 94.030. Council to make annual levy.
- 94.210. Board to fix rate of levy.
- 95.365. Money drawn from treasury, how — treasurer to report, when.
- 96.300. Homes for orphan children and children of indigent parents.
- 96.310. Children's home fund — when taxes may be levied — election — tax may be ended or reduced, when, how.
- 96.320. Directors.
- 96.330. Terms of office.
- 96.340. Organization — powers of directors — funds.
- 96.350. Admission.
- 96.360. Charges.
- 96.370. Annual report, contents.
- 96.380. Donations.
- 99.799. Joint committee on tax policy to conduct study.
- 105.140. State auditor may require officers to furnish statistics, penalty for failure.
- 105.983. Study and report on political telephone solicitations.
- 135.431. Community development corporation formation — purpose — duties and powers — funding.
- 135.433. Initiative, public-private partnership for community development corporations — purpose — funding.
- 137.118. Livestock and farm machinery, adjustment of tax rate ceiling without voter approval, when.
- 137.286. Ad valorem property tax levy approved in April or June of 1985, valuation, how determined.
- 142.821. Indian reservation exemption, how administered.
- 152.032. Grade crossing fund established, how funded, how spent.
- 165.016. Amount to be spent on tuition, retirement and compensation — base school year certificated salary percentage — exemption and revision — penalty — exceptions — termination date.
- 165.018. One-time transfer from incidental fund to capital projects fund permitted, amount, qualifications — termination date.
- 170.250. Video instructional development and educational opportunity program, established, purpose — fund established, uses — advisory committee, members, expenses — administration of program grants — health care providers to be furnished courses, when — availability of instructional programs — local telephone company, tariff filing, provision of service, rates.
- 172.860. Missouri rehabilitation center, certain funds to be transferred from department of revenue to University of Missouri curators — exceptions.
- 173.710. Contingent expiration date.
- 173.715. Regional education compact.
- 173.718. Coordinating board to administer program.
- 173.721. Contingent expiration date.
- 174.266. Trustees of Jasper County Junior College district and Missouri Western Junior College district, change in duties and powers of.
- 192.010. Authority of department of health and senior services — expiration thirty days after transfer of Missouri rehabilitation center to University of Missouri.
- 192.120. Instruction for child patients in rehabilitation centers.
- 192.255. Medical services fund — purchase of prophylactic drugs — funds not to revert — rules and regulations.
- 192.375. Missouri Senior Advocacy and Efficiency Commission established, members, meetings, duties — sunset date.

- 195.405. Registration required, exceptions — applications, contents — fees — renewal — penalty.
 - 195.410. Registration, qualifications for — suspension or revocation, grounds, procedure — limitations — duties of department.
 - 195.415. Records and stocks open for examination — officer's duty of confidentiality.
 - 195.425. Registration requirement waived by department, when — reporting requirement, exceptions — rules and regulations, authority to promulgate.
 - 196.180. Board of flour inspectors — duties (St. Louis).
 - 196.725. Words prohibited in sale of butter substitutes.
 - 196.730. Violation a misdemeanor — penalty.
 - 196.750. Imitation butter defined.
 - 196.755. Coloring of imitation butter prohibited.
 - 196.760. Labeling of imitation butter.
 - 196.765. Shipment of imitation butter under its true name.
 - 196.770. Labeling of butter and oleomargarine, mixed.
 - 196.775. Branding of renovated butter.
 - 196.780. Possession of substitute for butter — presumption.
 - 196.785. Sale of imitation butter.
 - 196.790. Penalties for violation.
 - 196.795. Certificate of professor of chemistry prima facie evidence.
 - 196.800. Who may not maintain action.
 - 196.805. Effacing mark a misdemeanor.
 - 196.810. Enforcement.
 - 197.314. Inapplicability of sections to dementia care units in certain counties (including Jackson County) and to certain not-for-profit corporations.
 - 197.317. Certificate not to be issued for certain facilities — utilization of demographic data.
 - 198.600. Uniform data management pilot program established, purpose, monitoring.
 - 207.023. Rules promulgated for community service commission by division of family services.
 - 207.040. Salary of director.
 - 207.050. County family services commission — qualifications, appointment, terms, expenses, vacancies, duties.
 - 207.055. Additional family services commission members, qualifications.
 - 208.344. Welfare reform, progress report to be submitted annually by division, content — expiration.
 - 208.978. Report on fund — recommendations — expiration date.
 - 210.002. Year 2000 plan, agencies to develop, purpose.
 - 210.111. Identification of children receiving foster care, report to general assembly, contents.
 - 210.292. State to reimburse certain cities and counties for cost of foster home care.
 - 211.013. Definition of child, state courts administrator to conduct a study and issue a report, when.
 - 211.015. Educational needs of certain children under juvenile court jurisdiction, departments to conduct a study — report, contents.
 - 215.050. Housing development fund, how managed and used.
 - 215.340. Workfare renovation project created — purpose.
 - 215.345. Definitions.
 - 215.347. Workfare renovation project goals — powers of the commission — sales of property, requirements — rules invalid when.
 - 215.349. Properties for projects, how selected — public hearings held to obtain community input — factors to be considered.
 - 215.351. Appropriations used for training.
 - 215.353. Housing development commission to use workfare renovation project properties, when.
 - 215.355. Collaboration for workfare renovation project.
 - 217.860. Task force created, duties, members, meetings — expiration date.
 - 221.140. Necessary clothing for prisoner — cost, how paid.
 - 237.200. Ferryman protected against interference by steamboats.
 - 253.375. Thomas Hart Benton homestead memorial commission — members, qualifications — duties — expenses — powers.
 - 253.406. Appropriation by general assembly to fund.
 - 260.481. Disincorporation certain city, when, procedure — trustee appointment, duties — expenditures (Times Beach).
 - 263.210. Packing straw to be burned — failure a misdemeanor.
 - 278.010. Provisions of federal soil conservation and allotment act accepted.
 - 278.020. Curators of university designated as state agency.
 - 278.030. Curators to formulate state plan — procedure.
 - 278.040. Curators authorized to receive grants.
 - 278.050. Powers of curators.
 - 301.273. Highway reciprocity commission, officers, expenses, meetings, records.
 - 301.3112. Friends of the Missouri Women's Council special license plate, application, fee.
 - 307.176. Citizens band radio temporarily installed on buses, requirements.
-

- 307.367. Transfer of moneys to the Missouri air emission reduction fund, when, use of moneys, exemption from transfer, Missouri air pollution control fund abolished, when.
- 311.470. Druggists may sell and physicians prescribe liquor.
- 318.010. County commission may license keepers of billiard tables.
- 318.020. Collector to deliver license.
- 318.030. Limit on license in cities and towns.
- 318.040. Lien for license.
- 318.050. Collectors to be charged for blanks.
- 318.060. Clerk to certify to state auditor.
- 318.070. Exceptions.
- 318.080. Penalty for keeping table without license.
- 318.090. Minors, consent required under age sixteen — alcoholic beverages served on premises, must be over twenty-one, violations, penalty — exceptions.
- 318.100. Keepers of tables to display law.
- 340.290. Certain proceedings not abated.
- 342.010. Qualifications of stationary engineers in certain cities.
- 342.020. Incorporated associations may grant certificates.
- 374.208. Study on insurance markets — expiration date.
- 376.990. Study to be conducted on financing of the state health insurance pool, contents, report.
- 386.220. Reciprocity contracts and agreements.
- 389.440. Railroads carrying stock to furnish cabooses.
- 389.450. Criminal penalty for violation of section 389.440.
- 389.880. Locomotive cabs to be enclosed and heated.
- 389.890. Seats in cabs, how constructed.
- 389.895. Safety glass required in caboose — defined — exception — enforcement.
- 400.9-118. Additional fee collected by secretary of state — expiration date.
- 402.225. Sections 402.200 to 402.220 effective September 29, 1989.
- 454.010. Purposes.
- 454.020. Definitions.
- 454.030. Remedies additional to those now existing.
- 454.040. Extent of duties of support.
- 454.050. Interstate rendition.
- 454.060. Conditions of interstate rendition.
- 454.070. Choice of law.
- 454.080. Remedies of state or subdivision furnishing support.
- 454.090. Enforcement irrespective of relation of parties.
- 454.100. Jurisdiction — circuit judge to hear proceedings — exception.
- 454.105. Jurisdiction of court, limited, how.
- 454.110. Contents of petition for support.
- 454.120. Prosecuting attorney to represent plaintiff, when.
- 454.130. Petition for a minor.
- 454.140. Duty of court of this state as initiating state.
- 454.150. Costs and fees.
- 454.160. Jurisdiction by arrest.
- 454.170. State information agency, duties.
- 454.180. Duty of court and officials of this state as responding state.
- 454.190. Prosecuting attorney to trace defendant — transmission of proceedings.
- 454.200. Duty to support, hearing to determine, evidence allowed, defenses allowed — paternity, how adjudicated.
- 454.210. Evidence of husband and wife.
- 454.220. Order of support.
- 454.230. Copy of orders of support transmitted to initiating state.
- 454.240. Additional powers of court.
- 454.250. Duties of clerk when acting as responding state.
- 454.260. Clerk to disburse payments by defendant from responding state.
- 454.270. Proceedings not to be stayed — support order pendente lite, when.
- 454.275. Appeal of support order by director, when.
- 454.280. Application of payments.
- 454.290. Additional remedies.
- 454.300. Registration.
- 454.310. Registry of foreign support orders.
- 454.320. Petition for registration.
- 454.330. Jurisdiction and procedure.
- 454.340. Effect and enforcement.
- 454.350. Uniformity of interpretation.
- 454.355. Provisions of law applicable, when — court has duties of a responding state, when.

- 454.360. Short title.
- 454.800. Definitions.
- 454.802. Statewide automated steering committee appointed, qualifications.
- 454.804. Terms of committee — expenses.
- 454.806. Committee's duties and powers.
- 460.100. Trustee may sue and be sued — right to attorney and costs of litigation.
- 460.250. Compensation of trustee.
- 490.610. Copy of enrollment of steamboat.
- 620.155. Missouri rural economic development council established, members, qualifications, appointment.
- 620.156. Council not to be compensated for services but to be paid expenses — officers, terms — staff.
- 620.157. Council's powers and duties.
- 620.158. Rural investment guide, council to develop, contents, purpose — distribution — sections 620.155 to 620.158 expire, when.
- 620.160. Rural community and sponsoring organization — defined.
- 620.161. Office of rural development created — director, appointment — powers and duties — staff.
- 620.163. Rural communities economic assistance program — grants-in-aid made to qualifying communities — expiration date — application — funding — distribution, amount per community — matching local funds, amount required — sponsoring organization to furnish certain supplies and services.
- 620.164. Communities receiving grants-in-aid to employ personnel, duties.
- 620.165. Training seminars and technical assistance by office of rural development for local development personnel — extension division of Missouri University and department to cooperate.
- 620.170. Law, how cited — definitions.
- 620.173. Computerized marketing center, office to establish, purposes.
- 620.174. Director of export development office, appointment, qualifications — staff.
- 620.176. Economic development export and infrastructure board personnel, participation in medical benefits plan, conditions — contribution, payment — family members participation, qualifications.
- 622.010. Division of motor carrier and railroad safety established — director, appointment, powers and duties. Division of transportation to be known as the division of motor carrier and railroad safety, when — established — director, appointment, powers and duties.
- 622.010. Division of motor carrier and railroad safety established — director, appointment, powers and duties. Division of transportation to be known as the division of motor carrier and railroad safety, when — established — director, appointment, powers and duties.
- 622.020. Administrative law judges, appointment, terms, qualifications, private law practice prohibited — compensation, expenses.
- 622.040. Cases pending public service commission prior to July 1, 1985, effect.
- 622.045. Organization of division duty of the director of economic development.
- 622.050. All other responsibilities of the public service commission not affected.
- 622.055. Transportation development commission, established, appointment, qualification, meetings — election of officers — expenses.
- 622.057. Commission powers and duties.
- 644.550. Bonds, principal and interest, how and when paid — repurchase when.
- 660.018. Application for waivers.
 - B. Contingent effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 2.030, 3.130, 3.140, 8.190, 11.010, 11.020, 21.811, 21.840, 28.085, 30.220, 31.010, 33.065, 33.285, 33.571, 33.577, 34.065, 34.110, 34.130, 37.005, 42.121, 57.080, 57.130, 60.461, 67.2677, 71.240, 71.730, 71.750, 71.970, 94.030, 94.210, 95.365, 96.300, 96.310, 96.320, 96.330, 96.340, 96.350, 96.360, 96.370, 96.380, 99.799, 99.918, 99.1082, 105.140, 105.983, 115.177, 135.205, 135.207, 135.230, 135.431, 135.433, 135.530, 135.903, 135.953, 137.118, 137.286, 142.800, 142.815, 142.821, 143.171, 152.032, 165.016, 165.018, 170.250, 172.860, 173.005, 173.710, 173.715, 173.718, 173.721, 174.020, 174.266, 178.637, 178.930, 191.362, 192.010, 192.120, 192.255, 192.375, 195.060, 195.400, 195.405, 195.410, 195.415, 195.425, 196.180, 196.725, 196.730, 196.750, 196.755, 196.760, 196.765, 196.770, 196.775, 196.780, 196.785, 196.790, 196.795, 196.800, 196.805, 196.810, 197.305, 197.314, 197.317, 197.318, 197.366, 198.058, 198.087, 198.600, 207.023, 207.040, 207.050, 207.055, 208.344, 208.978, 210.002, 210.111, 210.292, 211.013, 211.015, 215.050, 215.263, 215.340, 215.345, 215.347, 215.349, 215.351, 215.353, 215.355, 217.860, 221.140, 237.200, 253.022, 253.375, 253.406, 260.370, 260.481, 263.210, 278.010, 278.020, 278.030, 278.040, 278.050, 288.090, 301.273, 301.3112, 303.026, 307.176, 307.367, 311.470, 313.008,

313.835, 318.010, 318.020, 318.030, 318.040, 318.050, 318.060, 318.070, 318.080, 318.090, 318.100, 329.028, 340.290, 342.010, 342.020, 374.208, 376.671, 376.990, 386.220, 389.440, 389.450, 389.880, 389.890, 389.895, 400.9-118, 402.225, 454.010, 454.020, 454.030, 454.040, 454.050, 454.060, 454.070, 454.080, 454.090, 454.100, 454.105, 454.110, 454.120, 454.130, 454.140, 454.150, 454.160, 454.170, 454.180, 454.190, 454.200, 454.210, 454.220, 454.230, 454.240, 454.250, 454.260, 454.270, 454.275, 454.280, 454.290, 454.300, 454.310, 454.320, 454.330, 454.340, 454.350, 454.355, 454.360, 454.800, 454.802, 454.804, 454.806, 460.100, 460.250, 488.5345, 490.610, 537.675, 537.684, 620.010, 620.155, 620.156, 620.157, 620.158, 620.160, 620.161, 620.163, 620.164, 620.165, 620.170, 620.173, 620.174, 620.176, 620.1023, 622.020, 622.040, 622.045, 622.050, 622.055, 622.057, 644.054, 644.550, 644.551, and 660.018, RSMo, and section 622.010 as enacted by house committee substitute for senate bill no. 780, eighty-eighth general assembly, second regular session and section 622.010 as enacted by house committee substitute for house bill no. 991, eighty-eighth general assembly, second regular session, RSMo, are repealed and fifty-three new sections enacted in lieu thereof, to be known as sections 2.030, 3.130, 3.140, 11.010, 11.020, 21.920, 33.065, 33.850, 34.110, 37.005, 42.121, 57.080, 67.2677, 99.918, 99.1082, 115.177, 135.205, 135.207, 135.230, 135.530, 135.903, 135.953, 142.800, 142.815, 143.171, 173.005, 174.020, 178.637, 178.930, 191.362, 195.060, 195.400, 197.305, 197.318, 197.366, 198.058, 198.087, 215.263, 253.022, 260.370, 288.090, 303.026, 313.008, 313.835, 329.028, 376.671, 488.5345, 537.675, 537.684, 620.010, 620.1023, 644.054, and 644.551, to read as follows:

2.030. LEGISLATIVE RESEARCH PRINTING AND BINDING OF LAWS. — The joint committee on legislative research shall annually collate[,] and index, **and may print[,] and bind and/or produce in a web-based electronic format** all laws and resolutions passed or adopted by the general assembly and all measures approved by the people since the last publication of the session laws. Any edition of the session laws published pursuant to this section is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

3.130. COMMITTEE TO DETERMINE NUMBER OF COPIES—DISTRIBUTION. — [1.] Such number of copies of each volume of each edition of the revised statutes of Missouri and annotations thereto and such number of the supplements or pocket parts thereto as may be necessary to meet the demand as determined by the committee shall be printed and bound, and also produced in an electronic format, and delivered to the revisor of statutes, who shall execute and file a receipt therefor with the director of revenue. The revisor of statutes shall distribute the copies, in either version or combination, [without charge as follows:

(1) To each state department, and each division and bureau thereof, one copy as requested in writing specifying the version;

(2) To each member of the general assembly when first elected, one bound version and, if requested, one copy in the electronic version; and at each general assembly thereafter, one printed version and one copy in the electronic version if so requested in writing; each member to receive one printed version and, if requested, one copy in the electronic version of each supplement and of each new edition of the revised statutes when published;

(3) To each judge of the supreme court, the court of appeals and to each judge of the circuit courts, except municipal judges, one copy in either version;

(4) To the probate divisions of the circuit courts of Jackson County, St. Louis County and the city of St. Louis, four additional copies each in either version or combination, and to the probate divisions of the circuit courts of those counties where the judge of the probate division sits in more than one city, one additional copy each in either version;

(5) To the law library of the supreme court, ten copies in either version or combination;

(6) To the law libraries of each district of the court of appeals, six copies each in either version or combination;

- (7) To the library of the United States Supreme Court, one copy in either version;
- (8) To the United States district courts and circuit court of appeals for Missouri, two copies each in either version or combination;
- (9) To the state historical society, two copies in either version or combination;
- (10) To the libraries of the state university at Columbia, at St. Louis, at Kansas City and at Rolla, one bound version and one electronic version each;
- (11) To the state colleges, Lincoln University, the community colleges, Missouri Western State College, Linn State Technical College, and Missouri Southern State College, one bound version and one electronic version each;
- (12) To the public school library of St. Louis, two copies in either version or combination;
- (13) To the Library of Congress, one copy in either version;
- (14) To the Mercantile Library of St. Louis, one bound version and one electronic version;
- (15) To each public library in the state, if requested, one copy in either version;
- (16) To the law libraries of St. Louis, St. Louis County, Kansas City and St. Joseph, one bound version and one electronic version each;
- (17) To the law schools of the state university, St. Louis University, and Washington University, one bound version and one electronic version each;
- (18) To the circuit clerk of each county of the state for distribution to each county officer, to be by him or her delivered to his or her successor in office, one copy in either version as requested in writing;
- (19) To the director of the committee on legislative research, such number of copies in either version or combination as may be required by such committee for the performance of its duties;
- (20) To any county law library, when requested by the circuit clerk, one bound version and one electronic version;
- (21) To each county library, one copy of either version, when requested in writing;
- (22) To any committee of the senate or house of representatives, as designated and requested by the accounts committee of the respective house] **at the price determined by the committee under section 3.140.**

[2. The revisor of statutes shall also provide the librarians of the supreme court library and the committee on legislative research such copies in either version or combination as may be necessary, not exceeding fifty-one each, to enable them to exchange the copies for like compilations or revisions of the statute laws of other states and territories.]

3.140. SALE OF REVISED STATUTES, PROCEDURE FOR — COST, HOW DETERMINED. —

[1.] The committee on legislative research may, through the revisor of statutes, sell copies of the revised statutes of Missouri, and any supplement or edition of pocket parts thereto, [not required by this chapter to be distributed without charge,] **in print and/or in a web-based electronic format** at a price to be determined by the committee, taking into account the cost of printing and binding, **producing the statutes and maintaining the website**, including the cost of delivery, and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund.

[2. The revisor of statutes shall also supply to the clerk of the circuit court of each county order blanks in a number sufficient to meet the public demand. The blanks may be used by the public to order copies which shall be sold by the committee as provided in subsection 1.]

11.010. OFFICIAL MANUAL. — The official manual, commonly known as the "Blue Book", compiled and **electronically** published by the secretary of state **on its official website** is the official manual of this state, and it is unlawful for any officer or employee of this state, or any board, or department or any officer or employee thereof, to cause to be printed, at state expense, any duplication or rearrangement of any part of the manual. It is also unlawful for the secretary of state to publish, or permit to be published in the manual any duplication, or rearrangement of

any part of any report, or other document, required to be printed at the expense of the state which has been submitted to and rejected by him **or her** as not suitable for publication in the manual.

11.020. STATE MANUAL — CONTENTS — ELECTRONIC DISTRIBUTION. — The secretary of state shall biennially, as soon as practicable after the organization of each general assembly, prepare and **electronically** publish [forty thousand copies of] the Missouri manual, to contain historical, official, political, statistical and other information in regard to the national and state governments, such as is found in the manuals of 1907 and 1908. The [manuals] **manual** shall be [distributed by the secretary of state, to the members of the general assembly, the state, judicial and county officers, each high school and each elementary school within the state and to the newspapers of the state and the surplus volumes shall be distributed throughout the state upon proper applications made therefor. Each member of the senate shall receive two hundred volumes and each member of the house of representatives shall receive one hundred volumes of the manual] **accessible via the official website of the secretary of state.**

21.920. COMMITTEE ESTABLISHED, MEMBERS, TERMS, DUTIES — REPORT. — **1.** There is established a joint committee of the general assembly to be known as the "Joint Committee on Missouri's Promise" to be composed of five members of the senate and five members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than three members from the house of representatives nor more than three members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The committee shall be charged with the following:

(1) Examining issues that will be impacting the future of the state of Missouri and its citizens;

(2) Developing long-term strategies and plans for:

(a) Increasing the economic prosperity and opportunities for the citizens of this state;

(b) Improving the health status of our citizens;

(c) An education system that educates students who are capable of attending and being productive and successful citizens and designed to successfully prepare graduates for global competition; and

(d) Other areas that the committee determines are vital to improving the lives of the citizens of Missouri;

(3) Developing three, five, and ten year plans for the general assembly to meet the long-term strategies outlined in subdivision (2) of this subsection;

(4) Implementing budget forecasting for the upcoming ten years in order to plan for the long-term financial soundness of the state; and

(5) Such other matters as the committee may deem necessary in order to determine the proper course of future legislative and budgetary action regarding these issues.

3. The committee may solicit input and information necessary to fulfill its obligations, including, but not limited to, soliciting input and information from any state department or agency the committee deems relevant, political subdivisions of this state, and the general public.

4. By January 1, 2011, and every year thereafter, the committee shall issue a report to the general assembly with any findings or recommendations of the committee with regard to its duties under subsection 2 of this section.

5. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

33.065. OBLIGATIONS INCURRED, WHEN. — No appropriation shall confer authority to incur an obligation after the termination of the fiscal year to which it relates[, and every appropriation shall expire two months after the end of the period for which made; provided, however, that such expiration date shall be six months after the end of such period for those governmental functions which require the utilization of good weather periods].

33.850. JOINT SUBCOMMITTEE ORGANIZED, MEMBERS, DUTIES — ANNUAL REPORTS, RECOMMENDATIONS — MEETINGS, HEARINGS — EXPIRATION DATE. — 1. The committee on legislative research shall organize a subcommittee, which shall be known as the "Joint Subcommittee on Recovery Accountability and Transparency", to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse.

2. The subcommittee shall consist of the following eight members:

(1) One-half of the members appointed by the chairperson from the house which he or she represents, two of whom shall be from the majority party and two of whom shall be from the minority party; and

(2) One-half of the members appointed by the vice chairperson from the house which he or she represents, two of whom shall be from the majority party and two of whom shall be from the minority party.

3. The appointment of the senate and house members shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired.

4. The subcommittee shall coordinate and conduct oversight of covered funds in order to prevent fraud, waste, and abuse, including:

(1) Reviewing whether the reporting of contracts and grants using covered funds meets applicable standards and specifies the purpose of the contract or grant and measures of performance;

(2) Reviewing whether competition requirements applicable to contracts and grants using covered funds have been satisfied;

(3) Reviewing covered funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring and referring matters it considers appropriate for investigation to the attorney general or the agency that disbursed the covered funds;

(4) Receiving regular reports from the commissioner of the office of administration, or his or her designee, concerning covered funds; and

(5) Reviewing the number of jobs created using these funds.

5. The subcommittee shall submit annual reports to the governor and general assembly, including the senate appropriations committee and house budget committee, that summarize the findings of the subcommittee with regard to its duties in subsection 4 of this section. All reports submitted under this subsection shall be made publicly available and posted on the governor's website, the general assembly website, and each state agency website. Any portion of a report submitted under this subsection may be redacted when made publicly available, if that portion would disclose information that is not subject to disclosure under chapter 610, or any other provision of state law.

6. (1) The subcommittee shall make recommendations to agencies on measures to prevent fraud, waste, and abuse relating to covered funds.

(2) Not later than thirty days after receipt of a recommendation under subdivision (1) of this subsection, an agency shall submit a report to the governor and general assembly, including the senate appropriations committee and house budget committee, and the subcommittee that states:

- (a) Whether the agency agrees or disagrees with the recommendations; and
- (b) Any actions the agency will take to implement the recommendations.

7. The subcommittee may:

(1) Review audits from the state auditor and conduct reviews relating to covered funds; and

(2) Receive regular testimony from the state auditor relating to audits of covered funds.

8. (1) Not later than thirty days after the date on which all initial members of the subcommittee have been appointed, the subcommittee shall hold its first meeting. Thereafter, the subcommittee shall meet at the call of the chairperson of the subcommittee.

(2) A majority of the members of the subcommittee shall constitute a quorum, but a lesser number of members may hold hearings.

9. The subcommittee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the subcommittee considers advisable to carry out the provisions of this section. Each agency of this state shall cooperate with any request of the subcommittee to provide such information as the subcommittee deems necessary to carry out the provisions of this section. Upon request of the subcommittee, the head of each agency shall furnish such information to the subcommittee. The head of each agency shall make all officers and employees of that agency available to provide testimony to the subcommittee and committee personnel.

10. Subject to appropriations, the subcommittee may enter into contracts with public agencies and with private persons to enable the subcommittee to discharge its duties under the provisions of this section, including contracts and other arrangements for studies, analyses, and other services.

11. The members of the subcommittee shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their official duties.

12. As used in this section, the term "covered fund" shall mean any moneys received by the state or any political subdivision under the American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States Congress.

13. This section shall expire March 1, 2013.

34.110. ACCEPTANCE OF GIFTS TO STATE — PURCHASE OF SURPLUS WAR MATERIALS.

— [1.] The commissioner of administration may enter into any contract with the United States of America or with any agency thereof for the purpose of accepting gifts and for the purchase of surplus war materials for cash, credit or other property with or without warranty and upon such other terms and conditions as the agency deems proper without regard to the provisions of the law which require:

- (1) The posting of notices or public advertising for bids or of expenditures;
- (2) The inviting or receiving of competitive bids;
- (3) The delivery of purchases before payment.

[2. In order to obtain United States government property, the commissioner of administration is hereby authorized and directed to certify the amount to the auditor, and the auditor is hereby authorized and directed to issue his warrant or warrants, and the state treasurer is hereby authorized and directed to pay said warrant or warrants, in payment of said government property.]

37.005. POWERS AND DUTIES, GENERALLY. — 1. Except as provided herein, the office of administration shall be continued as set forth in house bill 384, seventy-sixth general assembly and shall be considered as a department within the meaning used in the Omnibus State Reorganization Act of 1974. The commissioner of administration shall appoint directors of all major divisions within the office of administration.

2. The commissioner of administration shall be a member of the governmental emergency fund committee as ex officio comptroller and the director of the department of revenue shall be a member in place of the chief of the planning and construction division.

3. The office of administration is designated the "Missouri State Agency for Surplus Property" as required by Public Law 152, eighty-first Congress as amended, and related laws for disposal of surplus federal property. All the powers, duties and functions vested by sections 37.075 and 37.080, and others, are transferred by type I transfer to the office of administration as well as all property and personnel related to the duties. The commissioner shall integrate the program of disposal of federal surplus property with the processes of disposal of state surplus property to provide economical and improved service to state and local agencies of government. The governor shall fix the amount of bond required by section 37.080. All employees transferred shall be covered by the provisions of chapter 36, RSMo, and the Omnibus State Reorganization Act of 1974.

4. The commissioner of administration shall replace the director of revenue as a member of the board of fund commissioners and assume all duties and responsibilities assigned to the director of revenue by sections 33.300 to 33.540, RSMo, relating to duties as a member of the board and matters relating to bonds and bond coupons.

5. All the powers, duties and functions of the administrative services section, section 33.580, RSMo, and others, are transferred by a type I transfer to the office of administration and the administrative services section is abolished.

6. The commissioner of administration shall, in addition to his or her other duties, cause to be prepared a comprehensive plan of the state's field operations, buildings owned or rented and the communications systems of state agencies. Such a plan shall place priority on improved availability of services throughout the state, consolidation of space occupancy and economy in operations.

7. The commissioner of administration shall from time to time examine the space needs of the agencies of state government and space available and shall, with the approval of the board of public buildings, assign and reassign space in property owned, leased or otherwise controlled by the state. Any other law to the contrary notwithstanding, upon a determination by the commissioner that all or part of any property is in excess of the needs of any state agency, the commissioner may lease such property to a private or government entity. Any revenue received from the lease of such property shall be deposited into the fund or funds from which moneys for rent, operations or purchase have been appropriated. The commissioner shall establish by rule the procedures for leasing excess property.

8. [The commissioner of administration shall make the selection of a personnel director from the names of the three highest ranking available eligibles as provided in section 36.080, RSMo. The personnel advisory board, the personnel division and the personnel director in the office of administration shall retain the functions, duties and powers prescribed in chapter 36, RSMo. Members of the personnel advisory board shall be nominated by the commissioner of administration and appointed by the governor with the advice and consent of the senate.

9.] The commissioner of administration is hereby authorized to coordinate and control the acquisition and use of electronic data processing (EDP) and automatic data processing (ADP) in the executive branch of state government. For this purpose, the office of administration will have authority to:

(1) Develop and implement a long-range computer facilities plan for the use of EDP and ADP in Missouri state government. Such plan may cover, but is not limited to, operational standards, standards for the establishment, function and management of service centers,

coordination of the data processing education, and planning standards for application development and implementation;

(2) Approve all additions and deletions of EDP and ADP hardware, software, and support services, and service centers;

(3) Establish standards for the development of annual data processing application plans for each of the service centers. These standards shall include review of post-implementation audits. These annual plans shall be on file in the office of administration and shall be the basis for equipment approval requests;

(4) Review of all state EDP and ADP applications to assure conformance with the state information systems plan, and the information systems plans of state agencies and service centers;

(5) Establish procurement procedures for EDP and ADP hardware, software, and support service;

(6) Establish a charging system to be used by all service centers when performing work for any agency;

(7) Establish procedures for the receipt of service center charges and payments for operation of the service centers. The commissioner shall maintain a complete inventory of all state-owned or -leased EDP and ADP equipment, and annually submit a report to the general assembly which shall include starting and ending EDP and ADP costs for the fiscal year previously ended, and the reasons for major increases or variances between starting and ending costs. The commissioner shall also adopt, after public hearing, rules and regulations designed to protect the rights of privacy of the citizens of this state and the confidentiality of information contained in computer tapes or other storage devices to the maximum extent possible consistent with the efficient operation of the office of administration and contracting state agencies.

[10.] **9.** Except as provided in subsection 13 of this section, the fee title to all real property now owned or hereafter acquired by the state of Missouri, or any department, division, commission, board or agency of state government, other than real property owned or possessed by the state highways and transportation commission, conservation commission, state department of natural resources, and the University of Missouri, shall on May 2, 1974, vest in the governor. The governor may not convey or otherwise transfer the title to such real property, unless such conveyance or transfer is first authorized by an act of the general assembly. The provisions of this subsection requiring authorization of a conveyance or transfer by an act of the general assembly shall not, however, apply to the granting or conveyance of an easement to any rural electric cooperative as defined in chapter 394, RSMo, municipal corporation, quasi-governmental corporation owning or operating a public utility, or a public utility, except railroads, as defined in chapter 386, RSMo. The governor, with the approval of the board of public buildings, may, upon the request of any state department, agency, board or commission not otherwise being empowered to make its own transfer or conveyance of any land belonging to the state of Missouri which is under the control and custody of such department, agency, board or commission, grant or convey without further legislative action, for such consideration as may be agreed upon, easements across, over, upon or under any such state land to any rural electric cooperative, as [defined] **governed** in chapter 394, RSMo, municipal corporation, or quasi-governmental corporation owning or operating a public utility, or a public utility, except railroad, as defined in chapter 386, RSMo. The easement shall be for the purpose of promoting the general health, welfare and safety of the public and shall include the right of ingress or egress for the purpose of constructing, maintaining or removing any pipeline, power line, sewer or other similar public utility installation or any equipment or appurtenances necessary to the operation thereof, except that railroad as defined in chapter 386, RSMo, shall not be included in the provisions of this subsection unless such conveyance or transfer is first authorized by an act of the general assembly. The easement shall be for such consideration as may be agreed upon by the parties and approved by the board of public buildings. The attorney general shall approve

the form of the instrument of conveyance. The commissioner of administration shall prepare management plans for such properties in the manner set out in subsection 7 of this section.

[11.] 10. The commissioner of administration shall administer a revolving "Administrative Trust Fund" which shall be established by the state treasurer which shall be funded annually by appropriation and which shall contain moneys transferred or paid to the office of administration in return for goods and services provided by the office of administration to any governmental entity or to the public. The state treasurer shall be the custodian of the fund, and shall approve disbursements from the fund for the purchase of goods or services at the request of the commissioner of administration or the commissioner's designee. The provisions of section 33.080, RSMo, notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent to which the unencumbered balance at the close of any fiscal year exceeds one-eighth of the total amount appropriated, paid, or transferred to the fund during such fiscal year, and upon approval of the oversight division of the joint committee on legislative research. The commissioner shall prepare an annual report of all receipts and expenditures from the fund.

[12.] 11. All the powers, duties and functions of the department of community affairs relating to statewide planning are transferred by type I transfer to the office of administration.

[13.] 12. The titles which are vested in the governor by or pursuant to this section to real property assigned to any of the educational institutions referred to in section 174.020, RSMo, on June 15, 1983, are hereby transferred to and vested in the board of regents of the respective educational institutions, and the titles to real property and other interests therein hereafter acquired by or for the use of any such educational institution, notwithstanding provisions of this section, shall vest in the board of regents of the educational institution. The board of regents may not convey or otherwise transfer the title to or other interest in such real property unless the conveyance or transfer is first authorized by an act of the general assembly, except as provided in section 174.042, RSMo, and except that the board of regents may grant easements over, in and under such real property without further legislative action.

[14.] 13. Notwithstanding any provision of subsection [13] 12 of this section to the contrary, the board of governors of Missouri Western State University, Central Missouri State University, Missouri State University, or Missouri Southern State University; or the board of regents of Southeast Missouri State University, Northwest Missouri State University, or Harris-Stowe State University; or the board of curators of Lincoln University may convey or otherwise transfer, except in fee simple, the title to or other interest in such real property without authorization by an act of the general assembly. The provisions of this subsection shall expire August 28, 2011.

[15.] 14. All county sports complex authorities, and any sports complex authority located in a city not within a county, in existence on August 13, 1986, and organized under the provisions of sections 64.920 to 64.950, RSMo, are assigned to the office of administration, but such authorities shall not be subject to the provisions of subdivision (4) of subsection 6 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, as amended.

[16.] 15. All powers, duties, and functions vested in the administrative hearing commission, sections 621.015 to 621.205, RSMo, and others, are transferred to the office of administration by a type III transfer.

42.121. FUNDS DEPOSITED IN THE MISSOURI VETERANS' HOMES FUND, PURPOSE — FUND NOT TO LAPSE INTO GENERAL REVENUE. — 1. There is hereby established in the state treasury the "Missouri Veterans' Homes Fund". All moneys received by the Missouri veterans' homes or any officer thereof from any source whatsoever shall be transmitted promptly to the [state treasurer] director of revenue by the commission for deposit in the state treasury to the credit of the Missouri veterans' homes fund, which fund and all interest earned shall be maintained solely for the use of the Missouri veterans' homes. All interest earned from deposit of money in the Missouri veterans' homes fund shall be deposited to the credit of the Missouri veterans' homes fund and shall not be credited to general revenue.

2. The unexpended balance in the Missouri veterans' homes fund at the end of the biennium shall not be transferred to the ordinary revenue fund of the state treasury and shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

57.080. VACANCY IN OFFICE, HOW FILLED — PRIVATE PERSON MAY EXECUTE PROCESS, WHEN. — [1.] Whenever from any cause the office of sheriff becomes vacant, the same shall be filled by the county commission; if such vacancy happens more than nine months prior to the time of holding a general election, such county commission shall immediately order a special election to fill the same, and the person by it appointed shall hold said office until the person chosen at such election shall be duly qualified; otherwise the person appointed by such county commission shall hold office until the person chosen at such general election shall be duly qualified; but while such vacancy continues, any writ or process directed to the said sheriff and in such sheriff's hands at the time such vacancy occurs, remaining unexecuted, and any writ or process issued after such vacancy, may be served by any person selected by the plaintiff, the plaintiff's agent or attorney, at the risk of such plaintiff; and the clerk of any court out of which such writ or process shall issue shall endorse on such writ or process the authority to such person to execute and return the same, and shall state on such endorsement that the authority thus given is "at the request and risk of the plaintiff", and the person so named in said writ or process may proceed to execute and return said process, as sheriffs are by the law required to do. Such election shall be held on or before the tenth Tuesday after the vacancy occurs. Upon the occurrence of such vacancy, it shall be the duty of the presiding commissioner of the county commission, if such commission be not then in session, to call a special term thereof, and cause said election to be held.

[2. Notwithstanding the provisions of this section to the contrary, if a vacancy occurs in the office of the sheriff in any county of the first classification with more than seventy-one thousand three hundred but fewer than seventy-one thousand four hundred inhabitants, the election to fill such vacancy shall be held on the general municipal election day as provided for in section 115.121, RSMo. The provisions of this subsection shall expire on June 1, 2005.]

67.2677. DEFINITIONS. — For purposes of sections 67.2675 to 67.2714, the following terms mean:

- (1) "Cable operator", as defined in 47 U.S.C. Section 522(5);
- (2) "Cable system", as defined in 47 U.S.C. Section 522(7);
- (3) "Franchise", an initial authorization, or renewal of an authorization, issued by a franchising entity, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the provision of video service and any affiliated or subsidiary agreements related to such authorization;
- (4) "Franchise area", the total geographic area authorized to be served by an incumbent cable operator in a political subdivision as of August 28, 2007, or, in the case of an incumbent local exchange carrier, as such term is defined in 47 U.S.C. Section 251(h), or affiliate thereof, the area within such political subdivision in which such carrier provides telephone exchange service;
- (5) "Franchise entity", a political subdivision that was entitled to require franchises and impose fees on cable operators on the day before the [date of enactment] **effective date** of sections 67.2675 to 67.2714, provided that only one political subdivision may be a franchise entity with regard to a geographic area;
- (6) (a) "Gross revenues", limited to amounts billed to video service subscribers or received from advertisers for the following:
 - a. Recurring charges for video service;
 - b. Event-based charges for video service, including but not limited to pay-per-view and video-on-demand charges;

- c. Rental of set top boxes and other video service equipment;
 - d. Service charges related to the provision of video service, including but not limited to activation, installation, repair, and maintenance charges;
 - e. Administrative charges related to the provision of video service, including but not limited to service order and service termination charges; and
 - f. A pro rata portion of all revenue derived, less refunds, rebates, or discounts, by a video service provider for advertising over the video service network to subscribers within the franchise area where the numerator is the number of subscribers within the franchise area, and the denominator is the total number of subscribers reached by such advertising;
- (b) "Gross revenues" do not include:
- a. Discounts, refunds, and other price adjustments that reduce the amount of compensation received by an entity holding a video service authorization;
 - b. Uncollectibles;
 - c. Late payment fees;
 - d. Amounts billed to video service subscribers to recover taxes, fees, or surcharges imposed on video service subscribers or video service providers in connection with the provision of video services, including the video service provider fee authorized by this section;
 - e. Fees or other contributions for PEG or I-Net support; or
 - f. Charges for services other than video service that are aggregated or bundled with amounts billed to video service subscribers, if the entity holding a video service authorization reasonably can identify such charges on books and records kept in the regular course of business or by other reasonable means;
- (c) Except with respect to the exclusion of the video service provider fee, gross revenues shall be computed in accordance with generally accepted accounting principles;
- (7) "Household", an apartment, a house, a mobile home, or any other structure or part of a structure intended for residential occupancy as separate living quarters;
- (8) "Incumbent cable operator", the cable service provider serving cable subscribers in a particular franchise area on September 1, 2007;
- (9) "Low-income household", a household with an average annual household income of less than thirty-five thousand dollars [as determined by the most recent decennial census];
- (10) "Person", an individual, partnership, association, organization, corporation, trust, or government entity;
- (11) "Political subdivision", a city, town, village, county;
- (12) "Public right-of-way", the area of real property in which a political subdivision has a dedicated or acquired right-of-way interest in the real property, including the area on, below, or above the present and future streets, alleys, avenues, roads, highways, parkways, or boulevards dedicated or acquired as right-of-way and utility easements dedicated for compatible uses. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other nonwire telecommunications or broadcast service;
- (13) "Video programming", programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section 522(20);
- (14) "Video service", the provision of video programming provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology whether provided as part of a tier, on demand, or a per-channel basis. This definition includes cable service as defined by 47 U.S.C. Section 522(6), but does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. Section 332(d), or any video programming provided solely as part of and via a service that enables users to access content, information, electronic mail, or other services offered over the public Internet;
-

(15) "Video service authorization", the right of a video service provider or an incumbent cable operator that secures permission from the public service commission pursuant to sections 67.2675 to 67.2714, to offer video service to subscribers in a political subdivision;

(16) "Video service network", wireline facilities, or any component thereof, located at least in part in the public right-of-way that deliver video service, without regard to delivery technology, including Internet protocol technology or any successor technology. The term video service network shall include cable systems;

(17) "Video service provider", any person that distributes video service through a video service network pursuant to a video service authorization;

(18) "Video service provider fee", the fee imposed under section 67.2689.

99.918. DEFINITIONS. — As used in sections 99.915 to 99.980, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Authority", the downtown economic stimulus authority for a municipality, created pursuant to section 99.921;

(2) "Baseline year", the calendar year prior to the adoption of an ordinance by the municipality approving a development project; provided, however, if economic activity taxes or state sales tax revenues, from businesses other than any out-of-state business or businesses locating in the development project area, decrease in the development project area in the year following the year in which the ordinance approving a development project is approved by a municipality, the baseline year may, at the option of the municipality approving the development project, be the year following the year of the adoption of the ordinance approving the development project. When a development project area is located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed by the governor pursuant to section 44.100, RSMo, due to a natural disaster of major proportions that occurred after May 1, 2003, but prior to May 10, 2003, and the development project area is a central business district that sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency, the baseline year may, at the option of the municipality approving the development project, be the calendar year in which the natural disaster occurred or the year following the year in which the natural disaster occurred, provided that the municipality adopts an ordinance approving the development project within one year after the occurrence of the natural disaster;

(3) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(4) "Central business district", the area at or near the historic core that is locally known as the "downtown" of a municipality that has a median household income of sixty-two thousand dollars or less, according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five.** In addition, at least fifty percent of existing buildings in this area will have been built in excess of thirty-five years prior or vacant lots that had prior structures built in excess of thirty-five years prior to the adoption of the ordinance approving the redevelopment plan. The historical land use emphasis of a central business district prior to redevelopment will have been a mixed use of business, commercial, financial, transportation, government, and multifamily residential uses;

(5) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes, economic activity taxes other than economic activity taxes

which are local sales taxes, and other local taxes other than local sales taxes, and, for local sales taxes and state taxes, the director of revenue;

(6) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more, and such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning;

(7) "Development area", an area designated by a municipality in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as a blighted area or a conservation area, which area shall have the following characteristics:

(a) It includes only those parcels of real property directly and substantially benefited by the proposed development plan;

(b) It can be renovated through one or more development projects;

(c) It is located in the central business district;

(d) It has generally suffered from declining population or property taxes for the twenty-year period immediately preceding the area's designation as a development area or has structures in the area fifty percent or more of which have an age of thirty-five years or more;

(e) It is contiguous, provided, however that a development area may include up to three noncontiguous areas selected for development projects, provided that each noncontiguous area meets the requirements of paragraphs (a) to (g) herein;

(f) The development area shall not exceed ten percent of the entire area of the municipality; and

(g) The development area shall not include any property that is located within the one hundred year flood plain, as designated by the Federal Emergency Management Agency flood delineation maps, unless such property is protected by a structure that is inspected and certified by the United States Army Corps of Engineers. This subdivision shall not apply to property within the one hundred year flood plain if the buildings on the property have been or will be flood proofed in accordance with the Federal Emergency Management Agency's standards for flood proofing and the property is located in a home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants. Only those buildings certified as being flood proofed in accordance with the Federal Emergency Management Agency's standards for flood proofing by the authority shall be eligible for the state sales tax increment and the state income tax increment. Subject to the limitation set forth in this subdivision, the development area can be enlarged or modified as provided in section 99.951;

(8) "Development plan", the comprehensive program of a municipality to reduce or eliminate those conditions which qualified a development area as a blighted area or a conservation area, and to thereby enhance the tax bases of the taxing districts which extend into the development area through the reimbursement, payment, or other financing of development project costs in accordance with sections 99.915 to 99.980 and through the exercise of the powers set forth in sections 99.915 to 99.980. The development plan shall conform to the requirements of section 99.942;

(9) "Development project", any development project within a development area which constitutes a major initiative in furtherance of the objectives of the development plan, and any such development project shall include a legal description of the area selected for such development project;

(10) "Development project area", the area located within a development area selected for a development project;

(11) "Development project costs" include such costs to the development plan or a development project, as applicable, which are expended on public property, buildings, or rights-of-ways for public purposes to provide infrastructure to support [for] a development project. Such costs shall only be allowed as an initial expense which, to be recoverable, must be included in the costs of a development plan or development project, except in circumstances of plan amendments approved by the Missouri development finance board and the department of economic development. Such infrastructure costs include, but are not limited to, the following:

- (a) Costs of studies, appraisals, surveys, plans, and specifications;
- (b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning, or special services;
- (c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;
- (d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public buildings and fixtures;
- (e) Costs of construction of public works or improvements;
- (f) Financing costs, including, but not limited to, all necessary expenses related to the issuance of obligations issued to finance all or any portion of the infrastructure costs of one or more development projects, and which may include capitalized interest on any such obligations and reasonable reserves related to any such obligations;
- (g) All or a portion of a taxing district's capital costs resulting from any development project necessarily incurred or to be incurred in furtherance of the objectives of the development plan, to the extent the municipality by written agreement accepts and approves such infrastructure costs;
- (h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a development project;
- (i) State government costs, including, but not limited to, the reasonable costs incurred by the department of economic development, the department of revenue and the office of administration in evaluating an application for and administering state supplemental downtown development financing for a development project; and
- (j) Endowment of positions at an institution of higher education which has a designation as a Carnegie Research I University including any campus of such university system, subject to the provisions of section 99.958. In addition, economic activity taxes and payment in lieu of taxes may be expended on or used to reimburse any reasonable or necessary costs incurred or estimated to be incurred in furtherance of a development plan or a development project;

(12) "Economic activity taxes", the total additional revenue from taxes which are imposed by the municipality and other taxing districts, and which are generated by economic activities within each development project area, which are not related to the relocation of any out-of-state business into the development project area, which exceed the amount of such taxes generated by economic activities within such development project area in the baseline year plus, in development project areas where the baseline year is the year following the year in which the development project is approved by the municipality pursuant to subdivision (2) of this section, the total revenue from taxes which are imposed by the municipality and other taxing districts which is generated by economic activities within the development project area resulting from the relocation of an out-of-state business or out-of-state businesses to the development project area pursuant to section 99.919; but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, or special assessments. If a retail establishment relocates within one year from one facility to another facility within the same county and the municipality or authority finds that the retail establishment is a direct beneficiary of development financing, then for purposes of this definition, the

economic activity taxes generated by the retail establishment shall equal the total additional revenues from taxes which are imposed by the municipality and other taxing districts which are generated by the economic activities within the development project area which exceed the amount of taxes which are imposed by the municipality and other taxing districts which are generated by economic activities within the development project area generated by the retail establishment in the baseline year;

(13) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo;

(14) "Major initiative", a development project within a central business district that:

(a) Promotes tourism, cultural activities, arts, entertainment, education, research, arenas, multipurpose facilities, libraries, ports, mass transit, museums, or conventions, the estimated cost of which is in excess of the amount set forth below for the municipality, as applicable; or

(b) Promotes business location or expansion, the estimated cost of which is in excess of the amount set forth below for the municipality, and is estimated to create at least as many new jobs as set forth below within three years of such location or expansion:

Population of Municipality	Estimated Project Cost	New Jobs Created
300,000 or more	\$10,000,000	at least 100
100,000 to 299,999	\$5,000,000	at least 50
50,001 to 99,999	\$1,000,000	at least 10
50,000 or less	\$500,000	at least 5;

(15) "Municipality", any city, village, incorporated town, or any county of this state established on or prior to January 1, 2001, or a census-designated place in any county designated by the county for purposes of sections 99.915 to 99.1060;

(16) "New job", any job defined as a new job pursuant to subdivision (11) of section 100.710, RSMo;

(17) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the municipality or authority, or other public entity authorized to issue such obligations pursuant to sections 99.915 to 99.980 to carry out a development project or to refund outstanding obligations;

(18) "Ordinance", an ordinance enacted by the governing body of any municipality or an order of the governing body of such a municipal entity whose governing body is not authorized to enact ordinances;

(19) "Other net new revenues", the amount of state sales tax increment or state income tax increment or the combination of the amount of each such increment as determined under section 99.960;

(20) "Out-of-state business", a business entity or operation that has been located outside of the state of Missouri prior to the time it relocates to a development project area;

(21) "Payment in lieu of taxes", those revenues from real property in each development project area, which taxing districts would have received had the municipality not adopted a development plan and the municipality not adopted development financing, and which would result from levies made after the time of the adoption of development financing during the time the current equalized value of real property in such development project area exceeds the total equalized value of real property in such development project area during the baseline year until development financing for such development project area expires or is terminated pursuant to sections 99.915 to 99.980;

(22) "Special allocation fund", the fund of the municipality or its authority required to be established pursuant to section 99.957 which special allocation fund shall contain at least four separate segregated accounts into which payments in lieu of taxes are deposited in one account, economic activity taxes are deposited in a second account, other net new revenues are deposited in a third account, and other revenues, if any, received by the authority or the municipality for the purpose of implementing a development plan or a development project are deposited in a fourth account;

(23) "State income tax increment", up to fifty percent of the estimate of the income tax due the state for salaries or wages paid to new employees in new jobs at a business located in the development project area and created by the development project. The estimate shall be a percentage of the gross payroll which percentage shall be based upon an analysis by the department of revenue of the practical tax rate on gross payroll as a factor in overall taxable income;

(24) "State sales tax increment", up to one-half of the incremental increase in the state sales tax revenue in the development project area. In no event shall the incremental increase include any amounts attributable to retail sales unless the Missouri development finance board and the department of economic development are satisfied based on information provided by the municipality or authority, and such entities have made a finding that a substantial portion of all but a de minimus portion of the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. The incremental increase for an existing facility shall be the amount by which the state sales tax revenue generated at the facility exceeds the state sales tax revenue generated at the facility in the baseline year. The incremental increase in development project areas where the baseline year is the year following the year in which the development project is approved by the municipality pursuant to subdivision (2) of this section shall be the state sales tax revenue generated by out-of-state businesses relocating into a development project area. The incremental increase for a Missouri facility which relocates to a development project area shall be the amount by which the state sales tax revenue of the facility exceeds the state sales tax revenue for the facility in the calendar year prior to relocation;

(25) "State sales tax revenues", the general revenue portion of state sales tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law;

(26) "Taxing district's capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from a development project; and

(27) "Taxing districts", any political subdivision of this state having the power to levy taxes.

99.1082. DEFINITIONS. — As used in sections 99.1080 to 99.1092, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Baseline year", the calendar year prior to the adoption of an ordinance by the municipality approving a redevelopment project; provided, however, if local sales tax revenues or state sales tax revenues, from businesses other than any out-of-state business or businesses locating in the redevelopment project area, decrease in the redevelopment project area in the year following the year in which the ordinance approving a redevelopment project is approved by a municipality, the baseline year may, at the option of the municipality approving the redevelopment project, be the year following the year of the adoption of the ordinance approving the redevelopment project. When a redevelopment project area is located within a county for which public and individual assistance has been requested by the governor under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq., for an emergency proclaimed by the governor under section 44.100, RSMo, due to a natural disaster of major proportions and the redevelopment project area is a central business

district that sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency, the baseline year may, at the option of the municipality approving the redevelopment project, be the calendar year in which the natural disaster occurred or the year following the year in which the natural disaster occurred, provided that the municipality adopts an ordinance approving the redevelopment project within one year after the occurrence of the natural disaster;

(2) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(3) "Central business district", the area at or near the historic core that is locally known as the "downtown" of a municipality that has a median household income of sixty-two thousand dollars or less, according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five.** In addition, at least fifty percent of existing buildings in this area will have been built in excess of thirty-five years prior or vacant lots that had prior structures built in excess of thirty-five years prior to the adoption of the ordinance approving the redevelopment plan. The historical land use emphasis of a central business district prior to redevelopment will have been a mixed use of business, commercial, financial, transportation, government, and multifamily residential uses;

(4) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more, and such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning;

(5) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo;

(6) "Local sales tax increment", at least fifty percent of the local sales tax revenue from taxes that are imposed by a municipality and its county, and that are generated by economic activities within a redevelopment area over the amount of such taxes generated by economic activities within such a redevelopment area in the calendar year prior to the adoption of the ordinance designating such a redevelopment area while financing under sections 99.1080 to 99.1092 remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, or special assessments; provided however, the governing body of any county may, by resolution, exclude any portion of any countywide sales tax of such county. For redevelopment projects or redevelopment plans approved after August 28, 2005, if a retail establishment relocates within one year from one facility within the same county and the governing body of the municipality finds that the retail establishment is a direct beneficiary of tax increment financing, then for the purposes of this subdivision, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes that are imposed by a

municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to its relocation to the redevelopment area;

(7) "Local sales tax revenue", city sales tax revenues received under sections 94.500 to 94.550, RSMo, and county sales tax revenues received under sections 67.500 to 67.594, RSMo;

(8) "Major initiative", a development project within a central business district which promotes tourism, cultural activities, arts, entertainment, education, research, arenas, multipurpose facilities, libraries, ports, mass transit, museums, economic development, or conventions for the municipality, and where the capital investment within the redevelopment project area is:

(a) At least five million dollars for a project area within a city having a population of one hundred thousand to one hundred ninety-nine thousand nine hundred and ninety-nine inhabitants;

(b) At least one million dollars for a project area within a city having a population of fifty thousand to ninety-nine thousand nine hundred and ninety-nine inhabitants;

(c) At least five hundred thousand dollars for a project area within a city having a population of ten thousand to forty-nine thousand nine hundred and ninety-nine inhabitants; or

(d) At least two hundred fifty thousand dollars for a project area within a city having a population of one to nine thousand nine hundred and ninety-nine inhabitants;

(9) "Municipality", any city or county of this state having fewer than two hundred thousand inhabitants;

(10) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the municipality or authority, or other public entity authorized to issue such obligations under sections 99.1080 to 99.1092 to carry out a redevelopment project or to refund outstanding obligations;

(11) "Ordinance", an ordinance enacted by the governing body of any municipality;

(12) "Redevelopment area", an area designated by a municipality in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as a blighted area or a conservation area, which area shall have the following characteristics:

(a) It can be renovated through one or more redevelopment projects;

(b) It is located in the central business district;

(c) The redevelopment area shall not exceed ten percent of the entire geographic area of the municipality. Subject to the limitation set forth in this subdivision, the redevelopment area can be enlarged or modified as provided in section 99.1088;

(13) "Redevelopment plan", the comprehensive program of a municipality to reduce or eliminate those conditions which qualify a redevelopment area as a blighted area or a conservation area, and to thereby enhance the tax bases of the taxing districts which extend into the redevelopment area through the reimbursement, payment, or other financing of redevelopment project costs in accordance with sections 99.1080 to 99.1092 and through application for and administration of downtown revitalization preservation program financing under sections 99.1080 to 99.1092;

(14) "Redevelopment project", any redevelopment project within a redevelopment area which constitutes a major initiative in furtherance of the objectives of the redevelopment plan, and any such redevelopment project shall include a legal description of the area selected for such redevelopment project;

(15) "Redevelopment project area", the area located within a redevelopment area selected for a redevelopment project;

(16) "Redevelopment project costs" include such costs to the redevelopment plan or a redevelopment project, as applicable, which are expended on public property, buildings, or rights-of-way for public purposes to provide infrastructure to support a redevelopment project, including facades. Such costs shall only be allowed as an initial expense which, to be recoverable, must be included in the costs of a redevelopment plan or redevelopment project, except in circumstances of plan amendments approved by the department of economic development. Such infrastructure costs include, but are not limited to, the following:

(a) Costs of studies, appraisals, surveys, plans, and specifications;

(b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning, or special services;

(c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public buildings and fixtures;

(e) Costs of construction of public works or improvements;

(f) Financing costs, including, but not limited to, all necessary expenses related to the issuance of obligations issued to finance all or any portion of the infrastructure costs of one or more redevelopment projects, and which may include capitalized interest on any such obligations and reasonable reserves related to any such obligations;

(g) All or a portion of a taxing district's capital costs resulting from any redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan, to the extent the municipality by written agreement accepts and approves such infrastructure costs;

(h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a redevelopment project when all debt is retired;

(i) State government costs, including, but not limited to, the reasonable costs incurred by the department of economic development and the department of revenue in evaluating an application for and administering downtown revitalization preservation financing for a redevelopment project;

(17) "State sales tax increment", up to one-half of the incremental increase in the state sales tax revenue in the redevelopment project area provided the local taxing jurisdictions commit one-half of their local sales tax to paying for redevelopment project costs. The incremental increase shall be the amount by which the state sales tax revenue generated at the facility or within the redevelopment project area exceeds the state sales tax revenue generated at the facility or within the redevelopment project area in the baseline year. For redevelopment projects or redevelopment plans approved after August 28, 2005, if a retail establishment relocates within one year from one facility to another facility within the same county and the governing body of the municipality finds that the retail establishment is a direct beneficiary of tax increment financing, then for the purposes of this subdivision, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes that are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to the relocation to the redevelopment area;

(18) "State sales tax revenues", the general revenue portion of state sales tax revenues received under section 144.020, RSMo, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law;

(19) "Taxing district's capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from a redevelopment project;

(20) "Taxing districts", any political subdivision of this state having the power to levy taxes.

115.177. REGISTRATIONS IN EFFECT JANUARY 1, 1978, TO REMAIN VALID, EXCEPTION.

— Nothing in this subchapter shall be construed in any way as interfering with or discontinuing any person's valid registration which is in effect on January 1, 1978, until such time as the person is required to transfer his registration or to reregister under the provisions of sections 115.001 to 115.641 and [sections 51.450 and] **section 51.460**, RSMo.

135.205. REQUIREMENTS TO QUALIFY AS ENTERPRISE ZONE. — For purposes of sections 135.200 to 135.256, an area must meet all the following criteria in order to qualify as an enterprise zone:

- (1) The area is one of pervasive poverty, unemployment, and general distress;
- (2) At least sixty-five percent of the residents living in the area have incomes below eighty percent of the median income of all residents within the state of Missouri according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five** or other appropriate source as approved by the director;
- (3) The resident population of the area must be at least four thousand but not more than seventy-two thousand at the time of designation as an enterprise zone if the area lies within a metropolitan statistical area, as established by the United States Census Bureau; or, if the area does not lie within a metropolitan statistical area, the resident population of the area at the time of designation must be at least one thousand but not more than twenty thousand inhabitants. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction; provided, however, no enterprise zone shall be created which consists of the total area within the political boundaries of a county; and
- (4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than fifty percent of the statewide percentage of residents employed on a full-time basis.

135.207. SATELLITE ZONES MAY BE ESTABLISHED IN CERTAIN CITIES OR VILLAGES, REQUIREMENTS. — 1. (1) Any city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county and any city not within a county, which includes an existing state designated enterprise zone within the corporate limits of the city, may each, upon approval of the local governing authority of the city and the director of the department of economic development, designate up to three satellite zones within its corporate limits. A prerequisite for the designation of a satellite zone shall be the approval by the director of a plan submitted by the local governing authority of the city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(2) Any Missouri community classified as a village whose borders lie adjacent to a city with a population in excess of three hundred fifty thousand inhabitants as described in subdivision (1) of this subsection, and which has within the corporate limits of the village a factory, mining operation, office, mill, plant or warehouse which has at least three thousand employees and has an investment in plant, machinery and equipment of at least two hundred million dollars may, upon securing approval of the director and the local governing authorities of the village and the adjacent city which contains an existing state-designated enterprise zone, designate one satellite zone to be located within the corporate limits of the village, such zone to be in addition to the six authorized in subdivision (1) of this subsection.

(3) Any geographical area partially contained within any city not within a county and partially contained within any county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, which area is comprised of a total population of at least four thousand inhabitants but not more than seventy-two thousand inhabitants, and which area consists of at least one fourth class city, and has within its boundaries a military reserve facility and a utility pumping station having a capacity of ten million cubic feet, may, upon securing approval of the director and the appropriate local governing authorities as provided for in section 135.210, be designated as a satellite zone, such zone to be in addition to the six authorized in subdivision (1) of this subsection.

(4) In addition to all other satellite zones authorized in this section, any home rule city with more than seventy-three thousand but less than seventy-five thousand inhabitants, which includes an existing state-designated enterprise zone within the corporate limits of the city, may, upon approval of the local governing authority of the city and director of the department of economic development, designate a satellite zone within its corporate limits. A prerequisite for the designation of a satellite zone pursuant to this subdivision shall be the approval by the director of the department of economic development of a plan submitted by the local governing authority of such city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(5) In addition to all other satellite zones authorized in this section, any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants, which includes an existing state-designated enterprise zone within the corporate limits of the city, may, upon approval of the local governing authority of the city and director of the department of economic development, designate a satellite zone within its corporate limits along the southwest corner of any intersection of two United States interstate highways. A prerequisite for the designation of a satellite zone pursuant to this subdivision shall be the approval by the director of the department of economic development of a plan submitted by the local governing authority of such city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(6) In addition to all other satellite zones authorized in this section, any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants which includes an existing state-designated enterprise zone within the corporate limits of the city may, upon approval of the governing authority of the city and the director of the department of economic development, designate one satellite zone within its corporate limits. No satellite zone shall be designated pursuant to this subdivision until the governing authority of the city submits a plan describing how the satellite zone corresponds to the city's overall enterprise zone strategy and the director approves the plan.

(7) In addition to all other satellite zones authorized in this section, any city of the fourth classification with more than three thousand eight hundred but less than four thousand inhabitants and located in more than one county and which city lies adjacent to any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants and which contains an enterprise zone may, upon approval of the director and the governing authorities of the city of the fourth classification and the home rule city, designate one satellite zone within its corporate limits. The satellite enterprise zone authorized by this [subsection] **subdivision** shall be designated only if it meets the criteria established by subsection 2 of this section. Retail businesses, as identified by the 1997 North American Industry Classification System (NAICS) sector numbers 44-45, located within the satellite enterprise zone shall be eligible for all benefits provided under the provisions of sections 135.200 to 135.258.

2. For satellite zones designated pursuant to the provisions of subdivisions (1) and (3) of subsection 1 of this section, the satellite zones, in conjunction with the existing state-designated enterprise zone shall meet the following criteria:

(1) The area is one of pervasive poverty, unemployment, and general distress, or one in which a large number of jobs have been lost, a large number of employers have closed, or in which a large percentage of available production capacity is idle. For the purpose of this subdivision, "large number of jobs" means one percent or more of the area's population according to the most recent decennial census, and "large number of employers" means over five;

(2) At least fifty percent of the residents living in the area have incomes below eighty percent of the median income of all residents within the state of Missouri according to the [last decennial census] **United States Census Bureau's American Community Survey, based on**

the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or other appropriate source as approved by the director;

(3) The resident population of the existing state-designated enterprise zone and its satellite zones must be at least four thousand but not more than seventy-two thousand at the time of designation;

(4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than sixty percent of the statewide percentage of residents employed on a full-time basis.

3. A qualified business located within a satellite zone shall be subject to the same eligibility criteria and can be eligible to receive the same benefits as a qualified facility in sections 135.200 to 135.258.

135.230. TAX CREDITS AND EXEMPTIONS, MAXIMUM PERIOD GRANTED — CALCULATION FORMULA — EMPLOYEE REQUIREMENTS, WAIVED OR REDUCED, WHEN — MOTOR CARRIER, TAX CREDITS, CONDITIONS—EXPANSION OF BOUNDARIES OF ENTERPRISE ZONE — PETITION FOR ADDITIONAL PERIOD, QUALIFICATIONS. — 1. The exemption or credit established and allowed by section 135.220 and the credits allowed and established by subdivisions (1), (2), (3) and (4) of subsection 1 of section 135.225 shall be granted with respect to any new business facility located within an enterprise zone for a vested period not to exceed ten years following the date upon which the new business facility commences operation within the enterprise zone and such exemption shall be calculated, for each succeeding year of eligibility, in accordance with the formulas applied in the initial year in which the new business facility is certified as such, subject, however, to the limitation that all such credits allowed in sections 135.225 and 135.235 and the exemption allowed in section 135.220 shall be removed not later than fifteen years after the enterprise zone is designated as such. No credits shall be allowed pursuant to subdivision (1), (2), (3) or (4) of subsection 1 of section 135.225 or section 135.235 and no exemption shall be allowed pursuant to section 135.220 unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two or the new business facility is a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200. In order to qualify for either the exemption pursuant to section 135.220 or the credit pursuant to subdivision (4) of subsection 1 of section 135.225, or both, it shall be required that at least thirty percent of new business facility employees, as determined by subsection 4 of section 135.110, meet the criteria established in section 135.240 or are residents of an enterprise zone or some combination thereof, except taxpayers who establish a new business facility by operating a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200 or any taxpayer that is an insurance company that established a new business facility satisfying the requirements of subdivision (8) of section 135.100 located within an enterprise zone after June 30, 1993, and before December 31, 1994, and that employs in excess of three hundred fifty new business facility employees at such facility each tax period for which the credits allowable pursuant to subdivisions (1) to (4) of subsection 1 of section 135.225 are claimed shall not be required to meet such requirement. A new business facility described as SIC 3751 shall be required to employ fifteen percent of such employees instead of the required thirty percent. For the purpose of satisfying the thirty-percent requirement, residents must have lived in the enterprise zone for a period of at least one full calendar month and must have been employed at the new business facility for at least one full calendar month, and persons qualifying because they meet the requirements of section 135.240 must have satisfied such requirement at the time they were employed by the new business facility and must have been employed at the new business facility for at least one full calendar month. The director may

temporarily reduce or waive this requirement for any business in an enterprise zone with ten or less full-time employees, and for businesses with eleven to twenty full-time employees this requirement may be temporarily reduced. No reduction or waiver may be granted for more than one tax period and shall not be renewable. The exemptions allowed in sections 135.215 and 135.220 and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245 shall not be allowed to any "public utility", as such term is defined in section 386.020, RSMo. For the purposes of achieving the fifteen-percent employment requirement set forth in this subsection, a new business facility described as NAICS 336991 may count employees who were residents of the enterprise zone at the time they were employed by the new business facility and for at least ninety days thereafter, regardless of whether such employees continue to reside in the enterprise zone, so long as the employees remain employed by the new business facility and residents of the state of Missouri.

2. Notwithstanding the provisions of subsection 1 of this section, motor carriers, barge lines or railroads engaged in transporting property for hire or any interexchange telecommunications company that establish a new business facility shall be eligible to qualify for the exemptions allowed in sections 135.215 and 135.220, and the credits allowed in sections 135.225 and 135.235 and the refund established and authorized in section 135.245, except that trucks, truck-trailers, truck semitrailers, rail or barge vehicles or other rolling stock for hire, track, switches, bridges, barges, tunnels, rail yards and spurs shall not constitute new business facility investment nor shall truck drivers or rail or barge vehicle operators constitute new business facility employees.

3. Notwithstanding any other provision of sections 135.200 to 135.256 to the contrary, motor carriers establishing a new business facility on or after January 1, 1993, but before January 1, 1995, may qualify for the tax credits available pursuant to sections 135.225 and 135.235 and the exemption provided in section 135.220, even if such new business facility has not satisfied the employee criteria, provided that such taxpayer employs an average of at least two hundred persons at such facility, exclusive of truck drivers and provided that such taxpayer maintains an average investment of at least ten million dollars at such facility, exclusive of rolling stock, during the tax period for which such credits and exemption are being claimed.

4. Any governing authority having jurisdiction of an area that has been designated an enterprise zone may petition the department to expand the boundaries of such existing enterprise zone. The director may approve such expansion if the director finds that:

- (1) The area to be expanded meets the requirements prescribed in section 135.207 or 135.210, whichever is applicable;
- (2) The area to be expanded is contiguous to the existing enterprise zone; and
- (3) The number of expansions do not exceed three after August 28, 1994.

5. Notwithstanding the fifteen-year limitation as prescribed in subsection 1 of this section, any governing authority having jurisdiction of an area that has been designated as an enterprise zone by the director, except one designated pursuant to this subsection, may file a petition, as prescribed by the director, for redesignation of such area for an additional period not to exceed seven years following the fifteenth anniversary of the enterprise zone's initial designation date; provided:

- (1) The petition is filed with the director within three years prior to the date the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 are required to be removed pursuant to subsection 1 of this section;
- (2) The governing authority identifies and conforms the boundaries of the area to be designated a new enterprise zone to the political boundaries established by the latest decennial census, unless otherwise approved by the director;
- (3) The area satisfies the requirements prescribed in subdivisions (3), [and (4)] and (5) of section 135.205 according to the [latest decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data**

in which the final year of the estimate ends in either zero or five or other appropriate source as approved by the director;

(4) The governing authority satisfies the requirements prescribed in sections 135.210, 135.215 and 135.255;

(5) The director finds that the area is unlikely to support reasonable tax assessment or to experience reasonable economic growth without such designation; and

(6) The director's recommendation that the area be designated as an enterprise zone is approved by the joint committee on economic development policy and planning, as otherwise required in subsection 3 of section 135.210.

6. Any taxpayer having established a new business facility in an enterprise zone except one designated pursuant to subsection 5 of this section, who did not earn the tax credits authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 for the full ten-year period because of the fifteen-year limitation as prescribed in subsection 1 of this section, shall be granted such benefits for ten tax years, less the number of tax years the benefits were claimed or could have been claimed prior to the expiration of the original fifteen-year period, except that such tax benefits shall not be earned for more than seven tax periods during the ensuing seven-year period, provided the taxpayer continues to operate the new business facility in an area that is designated an enterprise zone pursuant to subsection 5 of this section. Any taxpayer who establishes a new business facility subsequent to the commencement of the ensuing seven-year period, as authorized in subsection 5 of this section, may qualify for the tax credits authorized in sections 135.225 and 135.235, and the exemptions authorized in sections 135.215 and 135.220, pursuant to the same terms and conditions as prescribed in sections 135.100 to 135.256. The designation of any enterprise zone pursuant to subsection 5 of this section shall not be subject to the fifty enterprise zone limitation imposed in subsection 4 of section 135.210.

135.530. DISTRESSED COMMUNITY DEFINED. — For the purposes of sections 100.010, 100.710 and 100.850, RSMo, sections 135.110, 135.200, 135.258, 135.313, 135.403, 135.405, 135.503, 135.530 and 135.545, section 215.030, RSMo, sections 348.300 and 348.302, RSMo, and sections 620.1400 to 620.1460, RSMo, "distressed community" means either a Missouri municipality within a metropolitan statistical area which has a median household income of under seventy percent of the median household income for the metropolitan statistical area, according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five**, or a United States census block group or contiguous group of block groups within a metropolitan statistical area which has a population of at least two thousand five hundred, and each block group having a median household income of under seventy percent of the median household income for the metropolitan area in Missouri, according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five**. In addition the definition shall include municipalities not in a metropolitan statistical area, with a median household income of under seventy percent of the median household income for the nonmetropolitan areas in Missouri according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five** or a census block group or contiguous group of block groups which has a population of at least two thousand five hundred **with** each block group having a median household income of under seventy percent of the median household income for the nonmetropolitan areas of Missouri, according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five**. In metropolitan statistical areas, the

definition shall include areas that were designated as either a federal empowerment zone; or a federal enhanced enterprise community; or a state enterprise zone that was originally designated before January 1, 1986, but shall not include expansions of such state enterprise zones done after March 16, 1988.

135.903. RURAL EMPOWERMENT ZONE CRITERIA — APPLICATION, ZONE CREATED, REAPPLICATION — LIMITATION. — 1. To qualify as a rural empowerment zone, an area shall meet all the following criteria:

- (1) The area is one of pervasive poverty, unemployment, and general distress;
- (2) At least sixty-five percent of the population has earned income below eighty percent of the median income of all residents within the state according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five** or other appropriate source as approved by the director;
- (3) The population of the area is at least four hundred but not more than three thousand five hundred at the time of designation as a rural empowerment zone;
- (4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than fifty percent of the statewide percentage of residents employed on a full-time basis;
- (5) The area is situated more than ten miles from any existing rural empowerment zone;
- (6) The area is situated in a county of the third classification without a township form of government and with more than eight thousand nine hundred twenty-five but less than nine thousand twenty-five inhabitants; and
- (7) The area is not situated in an existing enterprise zone.

2. The governing body of any county in which an area may be designated a rural empowerment zone shall submit to the department an application showing that the area complies with the requirements of subsection 1 of this section. The department shall declare the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section. If the area is found not to meet the requirements, the governing body shall have the opportunity to submit another application for designation as a rural empowerment zone and the department shall designate the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section.

3. There shall be no more than two rural empowerment zones as created under sections 135.900 to 135.906 in existence at any time.

135.953. ENHANCED ENTERPRISE ZONE CRITERIA — ZONE MAY BE ESTABLISHED IN CERTAIN AREAS — ADDITIONAL CRITERIA. — 1. For purposes of sections 135.950 to 135.970, an area shall meet the following criteria in order to qualify as an enhanced enterprise zone:

- (1) The area shall be a blighted area, have pervasive poverty, unemployment and general distress; and
- (2) At least sixty percent of the residents living in the area have incomes below ninety percent of the median income of all residents:
 - (a) Within the state of Missouri, according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five** or other appropriate source as approved by the director; or
 - (b) Within the county or city not within a county in which the area is located, according to the last decennial census or other appropriate source as approved by the director; and

(3) The resident population of the area shall be at least five hundred but not more than one hundred thousand at the time of designation as an enhanced enterprise zone if the area lies within a metropolitan statistical area, as established by the United States Census Bureau, or if the area does not lie within a metropolitan statistical area, the resident population of the area at the time of designation shall be at least five hundred but not more than forty thousand inhabitants. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction. However, no enhanced enterprise zone shall be created which consists of the total area within the political boundaries of a county; and

(4) The level of unemployment of persons, according to the most recent data available from the United States Bureau of Census and approved by the director, within the area is equal to or exceeds the average rate of unemployment for:

- (a) The state of Missouri over the previous twelve months; or
- (b) The county or city not within a county over the previous twelve months.

2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be established in an area located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed by the governor pursuant to section 44.100, RSMo, due to a natural disaster of major proportions, if the area to be designated is blighted and sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency. An application for designation as an enhanced enterprise zone pursuant to this subsection shall be made before the expiration of one year from the date the governor requested federal relief for the area sought to be designated.

3. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be designated in a county of declining population if it meets the requirements of subdivisions (1), (3) and either (2) or (4) of subsection 1 of this section. For the purposes of this subsection, a "county of declining population" is one that has lost one percent or more of its population as demonstrated by comparing the most recent decennial census population to the next most recent decennial census population for the county.

4. In addition to meeting the requirements of subsection 1, 2, or 3 of this section, an area, to qualify as an enhanced enterprise zone, shall be demonstrated by the governing authority to have either:

- (1) The potential to create sustainable jobs in a targeted industry; or
- (2) A demonstrated impact on local industry cluster development.

142.800. DEFINITIONS. — As used in this chapter, the following words, terms and phrases have the meanings given:

(1) "Agricultural purposes", clearing, terracing or otherwise preparing the ground on a farm; preparing soil for planting and fertilizing, cultivating, raising and harvesting crops; raising and feeding livestock and poultry; building fences; pumping water for any and all uses on the farm, including irrigation; building roads upon any farm by the owner or person farming the same; operating milking machines; sawing wood for use on a farm; producing electricity for use on a farm; movement of tractors, farm implements and nonlicensed equipment from one field to another;

(2) "Alternative fuel", electricity, liquefied petroleum gas (LPG or LP gas), compressed natural gas product, or a combination of liquefied petroleum gas and a compressed natural gas or electricity product used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. It includes all forms of fuel commonly or commercially known or sold as butane, propane, or compressed natural gas;

(3) "Aviation fuel", any motor fuel specifically compounded for use in reciprocating aircraft engines;

(4) "Blend stock", any petroleum product component of motor fuel, such as naphtha, reformat, toluene or kerosene, that can be blended for use in a motor fuel without further processing. The term includes those petroleum products presently defined by the Internal Revenue Service in regulations pursuant to 26 U.S.C., Sections 4081 and 4082, as amended. However, the term does not include any substance that:

(a) Will be ultimately used for consumer nonmotor fuel use; and

(b) Is sold or removed in drum quantities (fifty-five gallons) or less at the time of the removal or sale;

(5) "Blended fuel", a mixture composed of motor fuel and another liquid including blend stock, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle. This term includes but is not limited to gasohol, ethanol, methanol, fuel grade alcohol, diesel fuel enhancers and resulting blends;

(6) "Blender", any person that produces blended motor fuel outside the bulk transfer/terminal system;

(7) "Blending", the mixing of one or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power for the propulsion of a motor vehicle, an airplane, or a motorboat. The term does not include the blending that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil and greases;

(8) "Bulk plant", a bulk motor fuel storage and distribution facility that is not a terminal within the bulk transfer system and from which motor fuel may be removed by truck;

(9) "Bulk transfer", any transfer of motor fuel from one location to another by pipeline tender or marine delivery within the bulk transfer/terminal system;

(10) "Bulk transfer/terminal system", the motor fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Motor fuel in a refinery, pipeline, boat, barge or terminal is in the bulk transfer/terminal system. Motor fuel in the fuel supply tank of any engine, or in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system;

(11) "Consumer", the user of the motor fuel;

(12) "Delivery", the placing of motor fuel or any liquid into the fuel tank of a motor vehicle or bulk storage facility;

(13) "Department", the department of revenue;

(14) "Destination state", the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use;

(15) "Diesel fuel", any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. "Diesel fuel" does not include jet fuel sold to a buyer who is registered with the Internal Revenue Service to purchase jet fuel and remit taxes on its sale or use to the Internal Revenue Service. "Diesel fuel" does not include biodiesel commonly referred to as B100 and defined in ASTM D6751, B99, or B99.9 until such biodiesel is blended with other diesel fuel or sold for highway use;

(16) "Diesel-powered highway vehicle", a motor vehicle operated on a highway that is propelled by a diesel-powered engine;

(17) "Director", the director of revenue;

(18) "Distributor", a person who either produces, refines, blends, compounds or manufactures motor fuel, imports motor fuel into a state or exports motor fuel out of a state, or who is engaged in distribution of motor fuel;

(19) "Dyed fuel", diesel fuel or kerosene that is required to be dyed pursuant to United States Environmental Protection Agency rules or is dyed pursuant to Internal Revenue Service

rules or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service including any invisible marker requirements;

(20) "Eligible purchaser", a distributor who has been authorized by the director to purchase motor fuel on a tax-deferred basis;

(21) "Export", to obtain motor fuel in this state for sale or other distribution outside of this state. In applying this definition, motor fuel delivered out of state by or for the seller constitutes an export by the seller, and motor fuel delivered out of state by or for the purchaser constitutes an export by the purchaser;

(22) "Exporter", any person, other than a supplier, who purchases motor fuel in this state for the purpose of transporting or delivering the fuel outside of this state;

(23) "Farm tractor", all tractor-type, motorized farm implements and equipment but shall not include motor vehicles of the truck-type, pickup truck-type, automobiles, and other motor vehicles required to be registered and licensed each year pursuant to the provisions of the motor vehicle license and registration laws of this state;

(24) "Fuel grade alcohol", a methanol or ethanol with a proof of not less than one hundred ninety degrees (determined without regard to denaturants) and products derived from such alcohol for blending with motor fuel;

(25) "Fuel transportation vehicle", any vehicle designed for highway use which is also designed or used to transport motor fuels and includes transport trucks and tank wagons;

(26) "Gasoline", all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. Gasoline does not include products that have an American Society for Testing and Materials (ASTM) octane number of less than seventy-five as determined by the motor method;

(27) "Gross gallons", the total measured motor fuel, exclusive of any temperature or pressure adjustments, in U.S. gallons;

(28) "Heating oil", a motor fuel that is burned in a boiler, furnace, or stove for heating or industrial processing purposes;

(29) "Import", to bring motor fuel into this state by any means of conveyance other than in the fuel supply tank of a motor vehicle. In applying this definition, motor fuel delivered into this state from out-of-state by or for the seller constitutes an import by the seller, and motor fuel delivered into this state from out-of-state by or for the purchaser constitutes an import by the purchaser;

(30) "Import verification number", the number assigned by the director with respect to a single transport truck delivery into this state from another state upon request for an assigned number by an importer or the transporter carrying motor fuel into this state for the account of an importer;

(31) "Importer" includes any person who is the importer of record, pursuant to federal customs law, with respect to motor fuel. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record of motor fuel entered into this state, the owner of the motor fuel at the time it is brought into this state is the importer;

(32) ["Indian country":

(a) Land held in trust by the United States of America for the benefit of a federally recognized Indian tribe or nation;

(b) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(c) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(d) All Indian allotments, the Indian titles to which have not been extinguished, including individual allotments held in trust by the United States or allotments owned in fee by individual

Indians subject to federal law restrictions regarding disposition of said allotments and including rights-of-way running through the same. The term shall also include the definition of Indian country as found in 18 U.S.C., Section 1151;

(33) "Indian tribe", "tribes", or "federally recognized Indian tribe or nation", an Indian tribal entity which is recognized by the United States Bureau of Indian Affairs as having a special relationship with the United States. The term shall also include the definition of a tribe as defined in 25 U.S.C., Section 479a;

(34)] "Interstate motor fuel user", any person who operates a motor fuel-powered motor vehicle with a licensed gross weight exceeding twenty-six thousand pounds that travels from this state into another state or from another state into this state;

[(35)] (33) "Invoiced gallons", the gallons actually billed on an invoice for payment to a supplier which shall be either gross or net gallons on the original manifest or bill of lading;

[(36)] (34) "K-1 kerosene", a petroleum product having an A.P.I. gravity of not less than forty degrees, at a temperature of sixty degrees Fahrenheit and a minimum flash point of one hundred degrees Fahrenheit with a sulfur content not exceeding four one-hundredths percent by weight;

[(37)] (35) "Kerosene", the petroleum fraction containing hydrocarbons that are slightly heavier than those found in gasoline and naphtha, with a boiling range of one hundred forty-nine to three hundred degrees Celsius;

[(38)] (36) "Liquid", any substance that is liquid in excess of sixty degrees Fahrenheit and at a pressure of fourteen and seven-tenths pounds per square inch absolute;

[(39)] (37) "Motor fuel", gasoline, diesel fuel, kerosene and blended fuel;

[(40)] (38) "Motor vehicle", any automobile, truck, truck-tractor or any motor bus or self-propelled vehicle not exclusively operated or driven upon fixed rails or tracks. The term does not include:

(a) Farm tractors or machinery including tractors and machinery designed for off-road use but capable of movement on roads at low speeds, or

(b) A vehicle solely operated on rails;

[(41)] (39) "Net gallons", the motor fuel, measured in U.S. gallons, when corrected to a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute (psi);

[(42)] (40) "Permissive supplier", an out-of-state supplier that elects, but is not required, to have a supplier's license pursuant to this chapter;

[(43)] (41) "Person", natural persons, individuals, partnerships, firms, associations, corporations, estates, trustees, business trusts, syndicates, this state, any county, city, municipality, school district or other political subdivision of the state, federally recognized Indian tribe, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court;

[(44)] (42) "Position holder", the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminating services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal;

[(45)] (43) "Propel", the operation of a motor vehicle, whether it is in motion or at rest;

[(46)] (44) "Public highway", every road, toll road, highway, street, way or place generally open to the use of the public as a matter of right for the purposes of vehicular travel, including streets and alleys of any town or city notwithstanding that the same may be temporarily closed for construction, reconstruction, maintenance or repair;

[(47)] (45) "Qualified terminal", a terminal which has been assigned a terminal control number ("tcn") by the Internal Revenue Service;

[(48)] **(46)** "Rack", a mechanism for delivering motor fuel from a refinery or terminal into a railroad tank car, a transport truck or other means of bulk transfer outside of the bulk transfer/terminal system;

[(49)] **(47)** "Refiner", any person that owns, operates, or otherwise controls a refinery;

[(50)] **(48)** "Refinery", a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which motor fuel may be removed by pipeline, by boat or barge, or at a rack;

[(51)] **(49)** "Removal", any physical transfer of motor fuel from a terminal, manufacturing plant, customs custody, pipeline, boat or barge, refinery or any facility that stores motor fuel;

[(52)] **(50)** "Retailer", a person that engages in the business of selling or dispensing to the consumer within this state;

[(53)] **(51)** "Supplier", a person that is:

(a) Registered or required to be registered pursuant to 26 U.S.C., Section 4101, for transactions in motor fuels in the bulk transfer/terminal distribution system; and

(b) One or more of the following:

a. The position holder in a terminal or refinery in this state;

b. Imports motor fuel into this state from a foreign country;

c. Acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to either a two-party exchange or a qualified buy-sell arrangement which is treated as an exchange and appears on the records of the terminal operator; or

d. The position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative substances in this state, produces fuel grade alcohol or alcohol-derivative substances for import to this state into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel grade alcohol or alcohol-derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise;

[(54)] **(52)** "Tank wagon", a straight truck having multiple compartments designed or used to carry motor fuel;

[(55)] **(53)** "Terminal", a bulk storage and distribution facility which includes:

(a) For the purposes of motor fuel, is a qualified terminal;

(b) For the purposes of fuel grade alcohol, is supplied by truck, rail car, boat, barge or pipeline and the products are removed at a rack;

[(56)] **(54)** "Terminal bulk transfers" include but are not limited to the following:

(a) Boat or barge movement of motor fuel from a refinery or terminal to a terminal;

(b) Pipeline movements of motor fuel from a refinery or terminal to a terminal;

(c) Book transfers of product within a terminal between suppliers prior to completion of removal across the rack; and

(d) Two-party exchanges or buy-sell supply arrangements within a terminal between licensed suppliers;

[(57)] **(55)** "Terminal operator", any person that owns, operates, or otherwise controls a terminal. A terminal operator may own the motor fuel that is transferred through or stored in the terminal;

[(58)] **(56)** "Transmix", the buffer or interface between two different products in a pipeline shipment, or a mix of two different products within a refinery or terminal that results in an off-grade mixture;

[(59)] **(57)** "Transport truck", a semitrailer combination rig designed or used to transport motor fuel over the highways;

[(60)] **(58)** "Transporter", any operator of a pipeline, barge, railroad or transport truck engaged in the business of transporting motor fuels;

[(61)] **(59)** "Two-party exchange", a transaction in which the motor fuel is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier and:

(a) Which transaction includes a transfer from the person that holds the original inventory position for motor fuel in the terminal as reflected on the records of the terminal operator; and

(b) The exchange transaction is simultaneous with removal from the terminal by the receiving exchange partner. However, in any event, the terminal operator in its books and records treats the receiving exchange party as the supplier which removes the product across a terminal rack for purposes of reporting such events to this state;

[(62)] **(60)** "Ultimate vender", a person that sells motor fuel to the consumer;

[(63)] **(61)** "Undyed diesel fuel", diesel fuel that is not subject to the United States Environmental Protection Agency dyeing requirements, or has not been dyed in accordance with Internal Revenue Service fuel dyeing provisions; and

[(64)] **(62)** "Vehicle fuel tank", any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the motor vehicle.

142.815. EXEMPTIONS ALLOWED FOR NONHIGHWAY USE. — 1. Motor fuel used for the following nonhighway purposes is exempt from the fuel tax imposed by this chapter, and a refund may be claimed by the consumer, except as provided for in [subsection] **subdivision** (1) of this [section] **subsection**, if the tax has been paid and no refund has been previously issued:

(1) Motor fuel used for nonhighway purposes including fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes and including, beginning January 1, 2006, bulk sales of one hundred gallons or more of gasoline made to farmers and delivered by the ultimate vender to a farm location for agricultural purposes only. As used in this section, the term "farmer" shall mean any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo. At the discretion of the ultimate vender, the refund may be claimed by the ultimate vender on behalf of the consumer for sales made to farmers and to persons engaged in construction for agricultural purposes as defined in section 142.800. After December 31, 2000, the refund may be claimed only by the consumer and may not be claimed by the ultimate vender unless bulk sales of gasoline are made to a farmer after January 1, 2006, as provided in this subdivision and the farmer provides an exemption certificate to the ultimate vender, in which case the ultimate vender may make a claim for refund under section 142.824 but shall be liable for any erroneous refund;

(2) Kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or for training, testing or research purposes of aircraft engines;

(3) Diesel fuel used as heating oil, or in railroad locomotives or any other motorized flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly exempted pursuant to another provision.

2. Subject to the procedural requirements and conditions set out in this chapter, the following uses are exempt from the tax imposed by section 142.803 on motor fuel, and a deduction or a refund may be claimed:

(1) Motor fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper and which is either:

(a) Exported by a supplier who is licensed in the destination state or through the bulk transfer system;

(b) Removed by a licensed distributor for immediate export to a state for which all the applicable taxes and fees (however nominated in that state) of the destination state have been paid to the supplier, as a trustee, who is licensed to remit tax to the destination state; or which is destined for use within the destination state by the federal government for which an exemption has been made available by the destination state subject to procedural rules and regulations promulgated by the director; or

(c) Acquired by a licensed distributor and which the tax imposed by this chapter has previously been paid or accrued either as a result of being stored outside of the bulk transfer system immediately prior to loading or as a diversion across state boundaries properly reported in conformity with this chapter and was subsequently exported from this state on behalf of the distributor; The exemption pursuant to paragraph (a) of this subdivision shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax upon removal of the product from a terminal or refinery in this state. The exemption pursuant to paragraphs (b) and (c) of this subdivision shall be claimed by the distributor, upon a refund application made to the director within three years. A refund claim may be made monthly or whenever the claim exceeds one thousand dollars;

(2) Undyed K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and undyed K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than twenty-one gallons for use other than for highway purposes. Exempt use of undyed kerosene shall be governed by rules and regulations of the director. If no rules or regulations are promulgated by the director, then the exempt use of undyed kerosene shall be governed by rules and regulations of the Internal Revenue Service. A distributor or supplier delivering to a retail facility shall obtain an exemption certificate from the owner or operator of such facility stating that its sales conform to the dispenser requirements of this subdivision. A licensed distributor, having obtained such certificate, may provide a copy to his or her supplier and obtain undyed kerosene without the tax levied by section 142.803. Having obtained such certificate in good faith, such supplier shall be relieved of any responsibility if the fuel is later used in a taxable manner. An ultimate vendor who obtained undyed kerosene upon which the tax levied by section 142.803 had been paid and makes sales qualifying pursuant to this subsection may apply for a refund of the tax pursuant to application, as provided in section 142.818, to the director provided the ultimate vendor did not charge such tax to the consumer;

(3) Motor fuel sold to the United States or any agency or instrumentality thereof. This exemption shall be claimed as provided in section 142.818;

(4) Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state when leased or owned and when being operated by a federally recognized Indian tribe in the performance of essential governmental functions, such as providing police, fire, health or water services. The exemption for use pursuant to this subdivision shall be made available to the tribal government upon a refund application stating that the motor fuel was purchased for the exclusive use of the tribe in performing named essential governmental services;

(5) [Motor fuel sold within an Indian reservation or within Indian country by a federally recognized Indian tribe to a member of that tribe and used in motor vehicles owned by a member of the tribe within Indian country. This exemption does not apply to sales within an Indian reservation or within Indian country by a federally recognized Indian tribe to non-Indian consumers or to Indian consumers who are not members of the tribe selling the motor fuel. This exemption shall be administered as provided in section 142.821;

(6)] That portion of motor fuel used to operate equipment attached to a motor vehicle, if the motor fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir for travel on a highway and for the operation of equipment, or if the motor fuel was placed in a separate fuel tank and used only for the operation of auxiliary equipment. The exemption for use pursuant to this subdivision shall be claimed by a refund claim filed by the consumer who shall provide evidence of an allocation of use satisfactory to the director;

[(7)] (6) Motor fuel acquired by a consumer out-of-state and carried into this state, retained within and consumed from the same vehicle fuel supply tank within which it was imported, except interstate motor fuel users;

[(8)] (7) Motor fuel which was purchased tax-paid and which was lost or destroyed as a direct result of a sudden and unexpected casualty or which had been accidentally contaminated

so as to be unsalable as highway fuel as shown by proper documentation as required by the director. The exemption pursuant to this subdivision shall be refunded to the person or entity owning the motor fuel at the time of the contamination or loss. Such person shall notify the director in writing of such event and the amount of motor fuel lost or contaminated within ten days from the date of discovery of such loss or contamination, and within thirty days after such notice, shall file an affidavit sworn to by the person having immediate custody of such motor fuel at the time of the loss or contamination, setting forth in full the circumstances and the amount of the loss or contamination and such other information with respect thereto as the director may require;

~~[(9)]~~ (8) Dyed diesel fuel or dyed kerosene used for an exempt purpose. This exemption shall be claimed as follows:

(a) A supplier or importer shall take a deduction against motor fuel tax owed on their monthly report for those gallons of dyed diesel fuel or dyed kerosene imported or removed from a terminal or refinery destined for delivery to a point in this state as shown on the shipping papers;

(b) This exemption shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax on removal of the product from a terminal or refinery in this state;

(c) This exemption shall be claimed by the distributor, upon a refund application made to the director within three years. A refund claim may be made monthly or whenever the claim exceeds one thousand dollars.

143.171. FEDERAL INCOME TAX DEDUCTION, AMOUNT, CORPORATE AND INDIVIDUAL TAXPAYERS. — 1. [For all tax years beginning before January 1, 1994, for an individual taxpayer and for all tax years beginning before September 1, 1993, for a corporate taxpayer, the taxpayer shall be allowed a deduction for his federal income tax liability under chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels, and lubricating oils).

2.] For all tax years beginning on or after January 1, 1994, an individual taxpayer shall be allowed a deduction for his federal income tax liability under chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed, not to exceed five thousand dollars on a single taxpayer's return or ten thousand dollars on a combined return, after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels, and lubricating oils).

[3.] 2. For all tax years beginning on or after September 1, 1993, a corporate taxpayer shall be allowed a deduction for fifty percent of its federal income tax liability under chapter 1 of the Internal Revenue Code for the same taxable year for which the Missouri return is being filed after reduction for all credits thereon, except the credit for payments of federal estimated tax, the credit for the overpayment of any federal tax, and the credits allowed by the Internal Revenue Code by section 31 (tax withheld on wages), section 27 (tax of foreign country and United States possessions), and section 34 (tax on certain uses of gasoline, special fuels and lubricating oils).

[4.] 3. If a federal income tax liability for a tax year prior to the applicability of sections 143.011 to 143.996 for which he was not previously entitled to a Missouri deduction is later paid or accrued, he may deduct the federal tax in the later year to the extent it would have been deductible if paid or accrued in the prior year.

173.005. DEPARTMENT OF HIGHER EDUCATION CREATED — AGENCIES, DIVISIONS, TRANSFERRED TO DEPARTMENT — COORDINATING BOARD, APPOINTMENT QUALIFICATIONS, TERMS, COMPENSATION, DUTIES, ADVISORY COMMITTEE, MEMBERS. —

1. There is hereby created a "Department of Higher Education", and the division of higher education of the department of education is abolished and all its powers, duties, functions, personnel and property are transferred as provided by the Reorganization Act of 1974, Appendix B, RSMo.

2. The commission on higher education is abolished and all its powers, duties, personnel and property are transferred by type I transfer to the "Coordinating Board for Higher Education", which is hereby created, and the coordinating board shall be the head of the department. The coordinating board shall consist of nine members appointed by the governor with the advice and consent of the senate, and not more than five of its members shall be of the same political party. None of the members shall be engaged professionally as an educator or educational administrator with a public or private institution of higher education at the time appointed or during his term. The other qualifications, terms and compensation of the coordinating board shall be the same as provided by law for the curators of the University of Missouri. The coordinating board may, in order to carry out the duties prescribed for it in subsections 1, 2, 3, 7, and 8 of this section, employ such professional, clerical and research personnel as may be necessary to assist it in performing those duties, but this staff shall not, in any fiscal year, exceed twenty-five full-time equivalent employees regardless of the source of funding. In addition to all other powers, duties and functions transferred to it, the coordinating board for higher education shall have the following duties and responsibilities:

(1) The coordinating board for higher education shall have approval of proposed new degree programs to be offered by the state institutions of higher education;

(2) The coordinating board for higher education may promote and encourage the development of cooperative agreements between Missouri public four-year institutions of higher education which do not offer graduate degrees and Missouri public four-year institutions of higher education which do offer graduate degrees for the purpose of offering graduate degree programs on campuses of those public four-year institutions of higher education which do not otherwise offer graduate degrees. Such agreements shall identify the obligations and duties of the parties, including assignment of administrative responsibility. Any diploma awarded for graduate degrees under such a cooperative agreement shall include the names of both institutions inscribed thereon. Any cooperative agreement in place as of August 28, 2003, shall require no further approval from the coordinating board for higher education. Any costs incurred with respect to the administrative provisions of this subdivision may be paid from state funds allocated to the institution assigned the administrative authority for the program. The provisions of this subdivision shall not be construed to invalidate the provisions of subdivision (1) of this subsection;

(3) In consultation with the heads of the institutions of higher education affected and against a background of carefully collected data on enrollment, physical facilities, manpower needs, institutional missions, the coordinating board for higher education shall establish guidelines for appropriation requests by those institutions of higher education; however, other provisions of the Reorganization Act of 1974 notwithstanding, all funds shall be appropriated by the general assembly to the governing board of each public four-year institution of higher education which shall prepare expenditure budgets for the institution;

(4) No new state-supported senior colleges or residence centers shall be established except as provided by law and with approval of the coordinating board for higher education;

(5) The coordinating board for higher education shall establish admission guidelines consistent with institutional missions;

(6) The coordinating board shall establish policies and procedures for institutional decisions relating to the residence status of students;

(7) The coordinating board shall establish guidelines to promote and facilitate the transfer of students between institutions of higher education within the state and shall ensure that as of the 2008-09 academic year, in order to receive increases in state appropriations, all approved public two- and four-year public institutions shall work with the commissioner of higher education to establish agreed-upon competencies for all entry-level collegiate courses in English, mathematics, foreign language, sciences, and social sciences associated with an institution's general education core and that the coordinating board shall establish policies and procedures to ensure such courses are accepted in transfer among public institutions and treated as equivalent to similar courses at the receiving institutions. The department of elementary and secondary education shall align such competencies with the assessments found in section 160.518, RSMo, and successor assessments;

(8) The coordinating board shall collect the necessary information and develop comparable data for all institutions of higher education in the state. The coordinating board shall use this information to delineate the areas of competence of each of these institutions and for any other purposes deemed appropriate by the coordinating board;

(9) Compliance with requests from the coordinating board for institutional information and the other powers, duties and responsibilities, herein assigned to the coordinating board, shall be a prerequisite to the receipt of any funds which the coordinating board is responsible for administering;

(10) If any institution of higher education in this state, public or private, willfully fails or refuses to follow any lawful guideline, policy or procedure established or prescribed by the coordinating board, or knowingly deviates from any such guideline, or knowingly acts without coordinating board approval where such approval is required, or willfully fails to comply with any other lawful order of the coordinating board, the coordinating board may, after a public hearing, withhold or direct to be withheld from that institution any funds the disbursement of which is subject to the control of the coordinating board, or may remove the approval of the institution as an approved institution within the meaning of section 173.1102. If any such public institution willfully disregards board policy, the commissioner of higher education may order such institution to remit a fine in an amount not to exceed one percent of the institution's current fiscal year state operating appropriation to the board. The board shall hold such funds until such time that the institution, as determined by the commissioner of higher education, corrects the violation, at which time the board shall refund such amount to the institution. If the commissioner determines that the institution has not redressed the violation within one year, the fine amount shall be deposited into the general revenue fund, unless the institution appeals such decision to the full coordinating board, which shall have the authority to make a binding and final decision, by means of a majority vote, regarding the matter. However, nothing in this section shall prevent any institution of higher education in this state from presenting additional budget requests or from explaining or further clarifying its budget requests to the governor or the general assembly; and

(11) (a) As used in this subdivision, the term "out-of-state public institution of higher education" shall mean an education institution located outside of Missouri that:

a. Is controlled or administered directly by a public agency or political subdivision or is classified as a public institution by the state;

b. Receives appropriations for operating expenses directly or indirectly from a state other than Missouri;

c. Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a degree or certificate;

d. Meets the standards for accreditation by an accrediting body recognized by the United States Department of Education or any successor agency; and

e. Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source.

(b) No later than July 1, 2008, the coordinating board shall promulgate rules regarding:

a. The board's approval process of proposed new degree programs and course offerings by any out-of-state public institution of higher education seeking to offer degree programs or course work within the state of Missouri; and

b. The board's approval process of degree programs and courses offered by any out-of-state public institutions of higher education that, prior to July 1, 2008, were approved by the board to operate a school in compliance with the provisions of sections 173.600 to 173.618.

The rules shall ensure that, as of July 1, 2008, all out-of-state public institutions seeking to offer degrees and courses within the state of Missouri are evaluated in a manner similar to Missouri public higher education institutions. Such out-of-state public institutions shall be held to standards no lower than the standards established by the coordinating board for program approval and the policy guidelines of the coordinating board for data collection, cooperation, and resolution of disputes between Missouri institutions of higher education under this section. Any such out-of-state public institutions of higher education wishing to continue operating within this state must be approved by the board under the rules promulgated under this subdivision. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

(c) Nothing in this subdivision or in section 173.616 shall be construed or interpreted so that students attending an out-of-state public institution are considered to be attending a Missouri public institution of higher education for purposes of obtaining student financial assistance.

3. The coordinating board shall meet at least four times annually with an advisory committee who shall be notified in advance of such meetings. The coordinating board shall have exclusive voting privileges. The advisory committee shall consist of thirty-two members, who shall be the president or other chief administrative officer of the University of Missouri; the chancellor of each campus of the University of Missouri; the president of each state-supported four-year college or university, including Harris-Stowe State University, Missouri Southern State University, Missouri Western State University, and Lincoln University; the president of Linn State Technical College; the president or chancellor of each public community college district; and representatives of each of five accredited private institutions selected biennially, under the supervision of the coordinating board, by the presidents of all of the state's privately supported institutions; but always to include at least one representative from one privately supported community college, one privately supported four-year college, and one privately supported university. The conferences shall enable the committee to advise the coordinating board of the views of the institutions on matters within the purview of the coordinating board.

4. The University of Missouri, Lincoln University, and all other state-governed colleges and universities, chapters 172, 174 and 175, RSMo, and others, are transferred by type III transfers to the department of higher education subject to the provisions of subsection 2 of this section.

5. The state historical society, chapter 183, RSMo, is transferred by type III transfer to the University of Missouri.

6. The state anatomical board, chapter 194, RSMo, is transferred by type II transfer to the department of higher education.

7. All the powers, duties and functions vested in the division of public schools and state board of education relating to community college state aid and the supervision, formation of districts and all matters otherwise related to the state's relations with community college districts and matters pertaining to community colleges in public school districts, chapters 163 and 178, RSMo, and others, are transferred to the coordinating board for higher education by type I transfer. Provided, however, that all responsibility for administering the federal-state programs

of vocational-technical education, except for the 1202a post-secondary educational amendments of 1972 program, shall remain with the department of elementary and secondary education. The department of elementary and secondary education and the coordinating board for higher education shall cooperate in developing the various plans for vocational-technical education; however, the ultimate responsibility will remain with the state board of education.

8. [The administration of sections 163.171 and 163.181, RSMo, relating to teacher-training schools in cities, is transferred by type I transfer to the coordinating board for higher education.

9. All the powers, duties, functions, personnel and property of the state library and state library commission, chapter 181, RSMo, and others, are transferred by type I transfer to the coordinating board for higher education, and the state library commission is abolished. The coordinating board shall appoint a state librarian who shall administer the affairs of the state library under the supervision of the board.

10.] All the powers, duties, functions, and properties of the state poultry experiment station, chapter 262, RSMo, are transferred by type I transfer to the University of Missouri, and the state poultry association and state poultry board are abolished. In the event the University of Missouri shall cease to use the real estate of the poultry experiment station for the purposes of research or shall declare the same surplus, all real estate shall revert to the governor of the state of Missouri and shall not be disposed of without legislative approval.

174.020. NAMES OF STATE COLLEGES AND UNIVERSITIES. — 1. Except as provided in subsection 5 of this section, state institutions of higher education governed by sections 174.020 to 174.500 shall be named and known as follows: the institution at Warrensburg, Johnson County, shall hereafter be known as the "Central Missouri State University"; the institution at Cape Girardeau, Cape Girardeau County, shall hereafter be known as the "Southeast Missouri State University"; the institution at Springfield, Greene County, shall hereafter be known as the "Missouri State University"; the institution at Maryville, Nodaway County, shall hereafter be known as the "Northwest Missouri State University"; the institution at St. Joseph, Buchanan County, shall hereafter be known as the "Missouri Western State University"; the institution at Joplin, Jasper County, shall hereafter be known as the "Missouri Southern State University"; and the college in the city of St. Louis shall be known as "Harris-Stowe State University".

2. References in the statutes in this state to such institutions whether denominated colleges or universities in such statutes or whether said institutions are renamed in subsection 1 of this section shall continue to apply to the applicable institution.

3. Any costs incurred with respect to modifications of the names of the state colleges and universities specified in subsection 1 of this section shall not be paid from state funds.

4. When the conditions set forth in section 178.631, RSMo, are met, the technical college located in Osage County, commonly known as the East Campus of Linn Technical College, shall be known as "Linn State Technical College".

[5. The board of governors of the institution at Warrensburg, Johnson County, may alter the name of such institution to "The University of Central Missouri" upon the approval of at least four voting members of the board. Upon such a vote, the board shall provide written notice to the revisor of statutes affirming that the board has approved the alteration. From the date the revisor receives the notice, the institution at Warrensburg, Johnson County, shall be named and known as "The University of Central Missouri". The provisions of this subsection shall expire on August 28, 2007.]

178.637. LINN STATE TECHNICAL COLLEGE DEEMED QUALIFIED FOR STUDENT LOANS OR SCHOLARSHIP PROGRAM, WHEN. — [1. Within twelve months after August 28, 1995, and after the conditions of section 178.631 are satisfied, the board of regents of Linn State Technical College shall submit to the coordinating board for higher education, for the approval of the coordinating board, a five-year plan outlining the changes necessary for the institution to realize its new mission as a state technical college. The plan shall include, but shall not be limited to,

such issues as admissions policies, new degrees programs to be developed, plans for attaining regional accreditation as a postsecondary institution, provisions for assessment of student learning and overall institutional performance, a fiscal plan for achieving institutional priorities, measurable goals and objectives for the institution, and specific provisions for coordinating with existing community colleges and area vocational technical schools. As this plan is developed it shall be assumed that tuition and fees for this institution shall be comparable to public four-year institutions rather than public two-year institutions. A copy of the five-year plan shall also be submitted to the state board of education for its review and comment, and the coordinating board shall give due consideration to the views of the state board in its approval process for the plan.

2. Within twelve months after August 28, 1995, and prior to completing action on any five-year mission implementation plan submitted by Linn State Technical College, the coordinating board for higher education shall complete, in cooperation with the state board of education, a comprehensive assessment of postsecondary vocational technical education in the state of Missouri. Such study shall include, but not be limited to, the adequacy of Missouri's delivery system for postsecondary vocational technical education, including the role of area vocational schools and community colleges, in meeting the needs of the state and its citizens, businesses, and industries for vocational technical education opportunities of high quality in terms of the quality of its services, its arrangements for efficient and effective governance, and its method and level of financing. This study shall develop a master plan for advanced technical and vocational training in the state of Missouri coordinating area vocation school sites with area community colleges and Linn State Technical College to form advanced vocational and technical training facilities. The plan shall establish a mechanism for meeting the needs of citizens, business and industry in this state with the goal of obtaining a skilled, high-demand workforce. The plan shall contain a means of funding advanced technical and vocational training in line with a strong state policy for a highly skilled, in-demand workforce. The plan shall further set forth a mechanism for coordination of the delivery system between Linn State Technical College, area community colleges and area vocational schools within the service districts of the respective community colleges. Programs to be offered and funded by the state shall be contemplated by the plan. Funding of the programs offered may be tied to cooperation of area vocational schools and area community colleges; except that, no mandates may be included on any program which is funded in whole or in part by local funds, unless the cost of the program is paid by the state. The plan shall further indicate and anticipate the role of telecommunications in delivery of classes between Linn State Technical College, area community colleges and area vocational sites. The coordinating board shall make such recommendations regarding any improvements in the postsecondary vocational education delivery system as it deems appropriate and shall report its findings to the governor, the speaker of the house of representatives, the president pro tempore of the senate, and the state board of education.

3. After the conditions of this section and section 178.631 are satisfied,] Linn State Technical College shall be deemed to be a qualified college, university, or educational institution for the purposes of any higher education student loan, grant, or scholarship program established pursuant to state law. **Tuition and fees for this institution shall be comparable to public four-year institutions rather than public two-year institutions.**

178.930. STATE AID, COMPUTATION OF — RECORDS, KEPT ON PREMISES — SHELTERED WORKSHOP PER DIEM REVOLVING FUND CREATED. — 1. (1) [Beginning July 1, 2007, and until June 30, 2008, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to seventy-five dollars for each standard workweek (Monday through Friday) of up to and including thirty hours worked during the preceding calendar month. Fifteen dollars shall be paid for each six-hour or longer day worked by a handicapped employee on Saturdays or Sundays. For each handicapped worker employed by a sheltered workshop for less than a thirty-hour week or a six-hour day on Saturdays or Sundays, the workshop shall receive a percentage of the

corresponding amount normally paid based on the percentage of time worked by the handicapped employee.

(2) Beginning July 1, 2008, and until June 30, 2009, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to eighty-five dollars for each standard workweek (Monday through Friday) of up to and including thirty hours worked during the preceding calendar month. Seventeen dollars shall be paid for each six-hour or longer day worked by a handicapped employee on Saturdays or Sundays. For each handicapped worker employed by a sheltered workshop for less than a thirty-hour week or a six-hour day on Saturdays or Sundays, the workshop shall receive a percentage of the corresponding amount normally paid based on the percentage of time worked by the handicapped employee.

(3) Beginning July 1, 2009, and until June 30, 2010, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to ninety dollars for each standard workweek (Monday through Friday) of up to and including thirty hours worked during the preceding calendar month. Eighteen dollars shall be paid for each six-hour or longer day worked by a handicapped employee on Saturdays or Sundays. For each handicapped worker employed by a sheltered workshop for less than a thirty-hour week or a six-hour day on Saturdays or Sundays, the workshop shall receive a percentage of the corresponding amount normally paid based on the percentage of time worked by the handicapped employee.

[(4)] (2) Beginning July 1, 2010, and thereafter, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to ninety-five dollars for each standard workweek (Monday through Friday) of up to and including thirty hours worked during the preceding calendar month. Nineteen dollars shall be paid for each six-hour or longer day worked by a handicapped employee on Saturdays or Sundays. For each handicapped worker employed by a sheltered workshop for less than a thirty-hour week or a six-hour day on Saturdays or Sundays, the workshop shall receive a percentage of the corresponding amount normally paid based on the percentage of time worked by the handicapped employee.

2. The department shall accept, as prima facie proof of payment due to a sheltered workshop, information as designated by the department, either in paper or electronic format. A statement signed by the president, secretary, and manager of the sheltered workshop, setting forth the dates worked and the number of hours worked each day by each handicapped person employed by that sheltered workshop during the preceding calendar month, together with any other information required by the rules or regulations of the department, shall be maintained at the workshop location.

3. There is hereby created in the state treasury the "Sheltered Workshop Per Diem Revolving Fund" which shall be administered by the commissioner of the department of elementary and secondary education. All moneys appropriated pursuant to subsection 1 of this section shall be deposited in the fund and expended as described in subsection 1 of this section.

4. The balance of the sheltered workshop per diem revolving fund shall not exceed five hundred thousand dollars at the end of each fiscal year and shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund. Any unexpended balance in the sheltered workshop per diem revolving fund at the end of each fiscal year exceeding five hundred thousand dollars shall be deposited in the general revenue fund.

191.362. APPROPRIATELY TRAINED EMPLOYEES TO HAVE COMPLETED COURSE IN DIALYSIS TECHNIQUES. — "Appropriately trained" employees of certified end-stage renal disease facilities, excluding licensed physicians and registered professional nurses, who may initiate dialysis shall be those employees who have successfully completed a course of study in the dialysis techniques [approved by the department of health and senior services].

195.060. CONTROLLED SUBSTANCES TO BE DISPENSED ON PRESCRIPTION ONLY, EXCEPTION. — 1. Except as provided in subsection 3 of this section, a pharmacist, in good faith, may sell and dispense controlled substances to any person only upon a prescription of a practitioner as authorized by statute, provided that the controlled substances listed in Schedule V may be sold without prescription in accordance with regulations of the department of health and senior services. All written prescriptions shall be signed by the person prescribing the same. All prescriptions shall be dated on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is prescribed, and the full name, address, and the registry number under the federal controlled substances laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of the animal for which the drug is prescribed. The person filling the prescription shall either write the date of filling and his own signature on the prescription or retain the date of filling and the identity of the dispenser as electronic prescription information. The prescription or electronic prescription information shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this law. No prescription for a drug in Schedule I or II shall be filled more than six months after the date prescribed; no prescription for a drug in schedule I or II shall be refilled; no prescription for a drug in Schedule III or IV shall be filled or refilled more than six months after the date of the original prescription or be refilled more than five times unless renewed by the practitioner.

2. The legal owner of any stock of controlled substances in a pharmacy, upon discontinuance of dealing in such drugs, may sell the stock to a manufacturer, wholesaler, or pharmacist, but only on an official written order.

3. A pharmacist, in good faith, may sell and dispense any Schedule II drug or drugs to any person in emergency situations as defined by rule of the department of health and senior services upon an oral prescription by an authorized practitioner.

4. [It shall be unlawful for controlled substances to be promoted or advertised for use or sale, provided that this subsection shall not prohibit such activity by a manufacturer, wholesaler, or their agents directed to a physician, pharmacist or other practitioner.

5.] Except where a bona fide physician-patient-pharmacist relationship exists, prescriptions for narcotics or hallucinogenic drugs shall not be delivered to or for an ultimate user or agent by mail or other common carrier.

195.400. REPORTS REQUIRED, EXCEPTIONS, PENALTIES — PERSON, DEFINED — LIST OF REGULATED CHEMICALS. — 1. As used in sections 195.400 to 195.425 the term "person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

2. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person shall submit to the department of health and senior services a report, as prescribed by the department of health and senior services, of all such transactions:

- (1) Anthranilic acid, its esters and its salts;
- (2) Benzyl cyanide;
- (3) Ergotamine and its salts;
- (4) Ergonovine and its salts;
- (5) N-Acetylanthranilic acid, its esters and its salts;
- (6) Phenylacetic acid, its esters and its salts;
- (7) Piperidine and its salts;
- (8) 3,4-Methylenedioxyphenyl-2-propanone;
- (9) Acetic anhydride;
- (10) Acetone;
- (11) Benzyl Chloride;

- (12) Ethyl ether;
- (13) Hydriodic acid;
- (14) Potassium permanganate;
- (15) 2-Butanone (or Methyl Ethyl Ketone or MEK);
- (16) Toluene;
- (17) Ephedrine, its salts, optical isomers, and salts of optical isomers;
- (18) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (19) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers;
- (20) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (21) Methylamine and its salts;
- (22) Ethylamine and its salts;
- (23) Propionic anhydride;
- (24) Isosafrole;
- (25) Safrole;
- (26) Piperonal;
- (27) N-Methylephedrine, its salts, optical isomers and salts of optical isomers;
- (28) N-Methylpseudoephedrine, its salts, optical isomers and salts of optical isomers;
- (29) Benzaldehyde;
- (30) Nitroethane;
- (31) Methyl Isobutyl Ketone (MIBK);
- (32) Sulfuric acid;
- (33) Iodine;
- (34) Red phosphorous;
- (35) Gamma butyrolactone;
- (36) 1,4 Butanediol.

3. [The chemicals listed or to be listed in the schedule in subsection 2 of this section are included by whatever official, common, usual, chemical, or trade name designated.

4.] The department of health and senior services by rule or regulation may add substances to or delete substances from subsection 2 of this section in the manner prescribed pursuant to section 195.017, if such substance is a component of or may be used to produce a controlled substance.

[5. Any manufacturer, wholesaler, retailer or other person shall, prior to selling, transferring, or otherwise furnishing any substance listed in subsection 2 of this section to a person within this state, require such person to give proper identification. For the purposes of this section "proper identification" means:

(1) A motor vehicle operator's license or other official state-issued identification which includes the residential or mailing address of the person, other than a post office box number; or

(2) A letter of authorization from the business to which any of the substances listed in subsection 2 of this section are being transferred, which shall include the address of the business and business license number if the business is required to have a license number; and

(3) A full description of how the substance is to be used; and

(4) The signature of the person to whom such substances are transferred. The person selling, transferring, or otherwise furnishing any substance listed in subsection 2 of this section shall affix his signature, to the document which evidences that a sale or transfer has been made, as a witness to the signature and proper identification of the person purchasing such substance.

6. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in subsection 2 of this section to a person shall keep records and inventories of all such chemicals in conformance with the record-keeping and inventory requirements of federal law, and in accordance with any additional regulations of the department of health and senior services.

7. The department of health and senior services is authorized to inspect the establishment of a registrant or applicant in accordance with the provisions of sections 195.005 to 195.425.

8. This section shall not apply to any of the following:

(1) Any pharmacist, pharmacy, or other authorized person who sells or furnishes a substance listed in subsection 2 of this section upon the prescription or order of a physician, dentist, podiatrist or veterinarian;

(2) Any physician, optometrist, dentist, podiatrist or veterinarian who administers, dispenses or furnishes a substance listed in subsection 2 of this section to his or her patients within the scope of his or her professional practice. Such administration or dispensing shall be recorded in the patient record;

(3) Any sale, transfer, furnishing or receipt of any drug which contains any substance listed in subsection 2 of this section and which is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug and Cosmetic Act or regulations adopted thereunder.

9. (1) Any violation of subsection 5 of this section shall be a class D felony.

(2) Any person subject to subsection 6 of this section who does not keep records or inventory as required or who knowingly documents false or fictitious information shall be guilty of a class D felony and subject to a fine not exceeding ten thousand dollars.

(3) Any person who is found guilty a second time of not keeping records or inventory as required in subsection 6 of this section or who knowingly documents false or fictitious information shall be guilty of a class C felony and subject to a fine not exceeding one hundred thousand dollars.]

197.305. DEFINITIONS. — As used in sections 197.300 to 197.366, the following terms mean:

(1) "Affected persons", the person proposing the development of a new institutional health service, the public to be served, and health care facilities within the service area in which the proposed new health care service is to be developed;

(2) "Agency", the certificate of need program of the Missouri department of health and senior services;

(3) "Capital expenditure", an expenditure by or on behalf of a health care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance;

(4) "Certificate of need", a written certificate issued by the committee setting forth the committee's affirmative finding that a proposed project sufficiently satisfies the criteria prescribed for such projects by sections 197.300 to 197.366;

(5) "Develop", to undertake those activities which on their completion will result in the offering of a new institutional health service or the incurring of a financial obligation in relation to the offering of such a service;

(6) "Expenditure minimum" shall mean:

(a) For beds in existing or proposed health care facilities licensed pursuant to chapter 198, RSMo, and long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo, six hundred thousand dollars in the case of capital expenditures, or four hundred thousand dollars in the case of major medical equipment, provided, however, that prior to January 1, 2003, the expenditure minimum for beds in such a facility and long-term care beds in a hospital described in section 198.012, RSMo, shall be zero, subject to the provisions of subsection 7 of section 197.318;

(b) For beds or equipment in a long-term care hospital meeting the requirements described in 42 CFR, Section 412.23(e), the expenditure minimum shall be zero; and

(c) For health care facilities, new institutional health services or beds not described in paragraph (a) or (b) of this subdivision one million dollars in the case of capital expenditures, excluding major medical equipment, and one million dollars in the case of medical equipment;

(7) ["Health care facilities", hospitals, health maintenance organizations, tuberculosis hospitals, psychiatric hospitals, intermediate care facilities, skilled nursing facilities, residential care facilities and assisted living facilities, kidney disease treatment centers, including freestanding hemodialysis units, diagnostic imaging centers, radiation therapy centers and ambulatory surgical facilities, but excluding the private offices of physicians, dentists and other practitioners of the healing arts, and Christian Science sanatoriums, also known as Christian Science Nursing facilities listed and certified by the Commission for Accreditation of Christian Science Nursing Organization/Facilities, Inc., and facilities of not-for-profit corporations in existence on October 1, 1980, subject either to the provisions and regulations of Section 302 of the Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401-538, and any residential care facility or assisted living facility operated by a religious organization qualified pursuant to Section 501(c)(3) of the federal Internal Revenue Code, as amended, which does not require the expenditure of public funds for purchase or operation, with a total licensed bed capacity of one hundred beds or fewer;

(8)] "Health service area", a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources, consisting of a population of not less than five hundred thousand or more than three million;

[(9)] (8) "Major medical equipment", medical equipment used for the provision of medical and other health services;

[(10)] (9) "New institutional health service":

(a) The development of a new health care facility costing in excess of the applicable expenditure minimum;

(b) The acquisition, including acquisition by lease, of any health care facility, or major medical equipment costing in excess of the expenditure minimum;

(c) Any capital expenditure by or on behalf of a health care facility in excess of the expenditure minimum;

(d) Predevelopment activities as defined in subdivision (13) hereof costing in excess of one hundred fifty thousand dollars;

(e) Any change in licensed bed capacity of a health care facility which increases the total number of beds by more than ten or more than ten percent of total bed capacity, whichever is less, over a two-year period;

(f) Health services, excluding home health services, which are offered in a health care facility and which were not offered on a regular basis in such health care facility within the twelve-month period prior to the time such services would be offered;

(g) A reallocation by an existing health care facility of licensed beds among major types of service or reallocation of licensed beds from one physical facility or site to another by more than ten beds or more than ten percent of total licensed bed capacity, whichever is less, over a two-year period;

[(11)] (10) "Nonsubstantive projects", projects which do not involve the addition, replacement, modernization or conversion of beds or the provision of a new health service but which include a capital expenditure which exceeds the expenditure minimum and are due to an act of God or a normal consequence of maintaining health care services, facility or equipment;

[(12)] (11) "Person", any individual, trust, estate, partnership, corporation, including associations and joint stock companies, state or political subdivision or instrumentality thereof, including a municipal corporation;

[(13)] (12) "Predevelopment activities", expenditures for architectural designs, plans, working drawings and specifications, and any arrangement or commitment made for financing; but excluding submission of an application for a certificate of need.

197.318. LICENSED AND AVAILABLE, DEFINED — REVIEW OF LETTERS OF INTENT — APPLICATION OF LAW IN PENDING COURT CASES — EXPANSION PROCEDURES. — 1. [The

provisions of section 197.317 shall not apply to a residential care facility, assisted living facility, intermediate care facility or skilled nursing facility only where the department of social services has first determined that there presently exists a need for additional beds of that classification because the average occupancy of all licensed and available residential care facility, assisted living facility, intermediate care facility and skilled nursing facility beds exceeds ninety percent for at least four consecutive calendar quarters, in a particular county, and within a fifteen-mile radius of the proposed facility, and the facility otherwise appears to qualify for a certificate of need. The department's certification that there is no need for additional beds shall serve as the final determination and decision of the committee. In determining ninety percent occupancy, residential care facility and assisted living facility shall be one separate classification and intermediate care and skilled nursing facilities are another separate classification.

2. The Missouri health facilities review committee may, for any facility certified to it by the department, consider the predominant ethnic or religious composition of the residents to be served by that facility in considering whether to grant a certificate of need.

3. There shall be no expenditure minimum for facilities, beds, or services referred to in subdivisions (1), (2) and (3) of section 197.317. The provisions of this subsection shall expire January 1, 2003.

4.] As used in this section, the term "licensed and available" means beds which are actually in place and for which a license has been issued.

5. The provisions of section 197.317 shall not apply to any facility where at least ninety-five percent of the patients require diets meeting the dietary standards defined by section 196.165, RSMo.

6.] 2. The committee shall review all letters of intent and applications for long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e) under its criteria and standards for long-term care beds.

7.] 3. Sections 197.300 to 197.366 shall not be construed to apply to litigation pending in state court on or before April 1, 1996, in which the Missouri health facilities review committee is a defendant in an action concerning the application of sections 197.300 to 197.366 to long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e).

8.] 4. Notwithstanding any other provision of this chapter to the contrary:

(1) A facility licensed pursuant to chapter 198, RSMo, may increase its licensed bed capacity by:

(a) Submitting a letter of intent to expand to the division of aging and the health facilities review committee;

(b) Certification from the division of aging that the facility:

a. Has no patient care class I deficiencies within the last eighteen months; and

b. Has maintained a ninety-percent average occupancy rate for the previous six quarters;

(c) Has made an effort to purchase beds for eighteen months following the date the letter of intent to expand is submitted pursuant to paragraph (a) of this subdivision. For purposes of this paragraph, an "effort to purchase" means a copy certified by the offeror as an offer to purchase beds from another licensed facility in the same licensure category; and

(d) If an agreement is reached by the selling and purchasing entities, the health facilities review committee shall issue a certificate of need for the expansion of the purchaser facility upon surrender of the seller's license; or

(e) If no agreement is reached by the selling and purchasing entities, the health facilities review committee shall permit an expansion for:

a. A facility with more than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or thirty beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-three percent or greater over the previous six quarters;

b. A facility with fewer than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or ten beds, whichever is greater, if that same

licensure category in such facility has experienced an average occupancy of ninety-two percent or greater over the previous six quarters;

c. A facility adding beds pursuant to subparagraphs a. or b. of this paragraph shall not expand by more than fifty percent of its then licensed bed capacity in the qualifying licensure category;

(2) Any beds sold shall, for five years from the date of relicensure by the purchaser, remain unlicensed and unused for any long-term care service in the selling facility, whether they do or do not require a license;

(3) The beds purchased shall, for two years from the date of purchase, remain in the bed inventory attributed to the selling facility and be considered by the department of social services as licensed and available for purposes of this section;

(4) Any residential care facility licensed pursuant to chapter 198, RSMo, may relocate any portion of such facility's current licensed beds to any other facility to be licensed within the same licensure category if both facilities are under the same licensure ownership or control, and are located within six miles of each other;

(5) A facility licensed pursuant to chapter 198, RSMo, may transfer or sell individual long-term care licensed beds to facilities qualifying pursuant to paragraphs (a) and (b) of subdivision (1) of this subsection. Any facility which transfers or sells licensed beds shall not expand its licensed bed capacity in that licensure category for a period of five years from the date the licensure is relinquished.

[9.] 5. Any existing licensed and operating health care facility offering long-term care services may replace one-half of its licensed beds at the same site or a site not more than thirty miles from its current location if, for at least the most recent four consecutive calendar quarters, the facility operates only fifty percent of its then licensed capacity with every resident residing in a private room. In such case:

(1) The facility shall report to the division of aging vacant beds as unavailable for occupancy for at least the most recent four consecutive calendar quarters;

(2) The replacement beds shall be built to private room specifications and only used for single occupancy; and

(3) The existing facility and proposed facility shall have the same owner or owners, regardless of corporate or business structure, and such owner or owners shall stipulate in writing that the existing facility beds to be replaced will not later be used to provide long-term care services. If the facility is being operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

[10.] 6. Nothing in this section shall prohibit a health care facility licensed pursuant to chapter 198, RSMo, from being replaced in its entirety within fifteen miles of its existing site so long as the existing facility and proposed or replacement facility have the same owner or owners regardless of corporate or business structure and the health care facility being replaced remains unlicensed and unused for any long-term care services whether they do or do not require a license from the date of licensure of the replacement facility.

197.366. HEALTH CARE FACILITIES DEFINED. — The [provisions of subdivision (8) of section 197.305 to the contrary notwithstanding, after December 31, 2001, the] term "health care facilities" in sections 197.300 to 197.366 shall mean:

(1) Facilities licensed under chapter 198, RSMo;

(2) Long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo;

(3) Long-term care hospitals or beds in a long-term care hospital meeting the requirements described in 42 CFR, section 412.23(e); and

(4) Construction of a new hospital as defined in chapter 197.

198.058. CERTAIN FACILITIES EXEMPT FROM CONSTRUCTION STANDARDS, WHEN. —

Any facility licensed under chapter 197, RSMo, or chapter 198, which is in operation before September 28, 1979, or whose application is on file, or whose construction plans have been approved by the department before September 28, 1979, shall be exempt from construction standards developed by the department subsequent to the date such facility became first licensed and including those construction standards developed after September 28, 1979, for buildings or other physical units which were in existence or under construction on September 28, 1979. Such facilities shall be licensed in accordance with all other standards and regulations promulgated under sections 198.003 to 198.096. [The department shall survey all such facilities and shall prepare a report for submission to the general assembly on actions and standards necessary to bring such facilities into full compliance. The report shall be filed with the speaker of the house and the president pro tem of the senate by January 1, 1982.]

198.087. UNIFORMITY OF APPLICATION OF REGULATION STANDARDS, DEPARTMENT'S DUTIES. — To ensure uniformity of application of regulation standards in long-term care facilities throughout the state, the department of social services shall:

(1) Evaluate the requirements for inspectors or surveyors of facilities, including the eligibility, training and testing requirements for the position. Based on the evaluation, the department shall develop and implement additional training and knowledge standards for inspectors and surveyors;

(2) Periodically evaluate the performance of the inspectors or surveyors regionally and statewide to identify any deviations or inconsistencies in regulation application. At a minimum, the Missouri on-site surveyor evaluation process, and the number and type of actions overturned by the informal dispute resolution process and formal appeal shall be used in the evaluation. Based on such evaluation, the department shall develop standards and a retraining process for the region, state, or individual inspector or surveyor, as needed;

(3) In addition to the provisions of subdivisions (1) and (2) of this section, the department shall develop a single uniform comprehensive and mandatory course of instruction for inspectors/surveyors on the practical application of enforcement of statutes, rules and regulations. Such course shall also be open to attendance by administrators and staff of facilities licensed pursuant to this chapter;

(4) With the full cooperation of and in conjunction with the department of health and senior services, evaluate the implementation and compliance of the provisions of subdivision (3) of subsection 1 of section 198.012 in which rules, requirements, regulations and standards pursuant to section 197.080, RSMo, for assisted living facilities, intermediate care facilities and skilled nursing facilities attached to an acute care hospital are consistent with the intent of this chapter. [A report of the differences found in the evaluation conducted pursuant to this subdivision shall be made jointly by the departments of social services and health and senior services to the governor and members of the general assembly by January 1, 2008]; and

(5) With the full cooperation and in conjunction with the department of health and senior services, develop rules and regulations requiring the exchange of information, including regulatory violations, between the departments to ensure the protection of individuals who are served by health care providers regulated by either the department of health and senior services or the department of social services.

215.263. AFFORDABLE HOUSING DEFINED, STAFF TO BE PROVIDED BY DEPARTMENT OF ECONOMIC DEVELOPMENT. — 1. For purposes of sections 215.261 to 215.263, the term "affordable housing" means all residential structures newly constructed or rehabilitated, which a person earning one hundred fifteen percent or less of the median income for the person's county, as determined by the United States [Bureau of the] Census **Bureau's American Community Survey, based on the most recent of five-year period estimate data in which**

the final year of the estimate ends in either zero or five, could afford if spending twenty-nine percent of that person's gross income annually on such housing.

2. Clerical, research and general administrative support staff for the commission shall be provided by the Missouri department of economic development.

253.022. DEPARTMENT OF NATURAL RESOURCES TO ADMINISTER THE NATIONAL HISTORIC PRESERVATION ACT. — [1.] The department of natural resources is authorized to administer the National Historic Preservation Act of 1966, Public Law 89-665.

[2. There is hereby created in the state treasury for use by the department of natural resources a fund to be known as "The National Historic Preservation Fund". All federal moneys received by the state of Missouri from the National Historic Preservation Act of 1966, Public Law 89-665, shall be deposited in the fund.

3. Moneys deposited in the fund shall, upon appropriation by the general assembly to the department of natural resources, be received and expended by the department of natural resources for the purpose of assuring preservation and protection of sites listed on the National Register of Historic Places, with private citizens, societies, associations, corporations, municipalities and state and federal agencies.

4. Any unexpended balance in the national historic preservation fund at the end of any appropriation period shall not be transferred to the general revenue fund of the state treasury and, accordingly, shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the general revenue funds of the state by the state treasurer.]

260.370. DUTIES AND POWERS OF COMMISSION — RULES AND REGULATIONS TO BE ADOPTED, PROCEDURES — INSPECTION FEES, USE OF, REFUND, WHEN — VARIANCES GRANTED, WHEN. — 1. Where proven technology is available and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall encourage that every effort is made to effectively treat, recycle, detoxify, incinerate or otherwise treat hazardous waste to be disposed of in the state of Missouri in order that such wastes are not disposed of in a manner which is hazardous to the public health and the environment. Where proven technology is available with respect to a specific hazardous waste and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall direct that disposal of the specific hazardous wastes using land filling as the primary method is prohibited.

2. The hazardous waste management commission shall, by rules and regulations, categorize hazardous waste by taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics. The commission shall by rules and regulations further establish within each category the wastes which may or may not be disposed of through alternative hazardous waste management technologies including, but not limited to, treatment facilities, incinerators, landfills, landfarms, storage facilities, surface impoundments, recycling, reuse and reduction. The commission shall specify, by rule and regulation, the frequency of inspection for each method of hazardous waste management and for the different waste categories at hazardous waste management sites. The inspection may be daily when the hazardous waste management commission deems it necessary. The hazardous waste management commission shall specify, by rule, fees to be paid to the department by owners or operators of hazardous waste facilities who have obtained, or are required to obtain, a hazardous waste facility permit and who accept, on a commercial basis for remuneration, hazardous waste from off-site sources, but not including wastes generated by the same person at other sites located in Missouri or within a metropolitan statistical area located partially in Missouri and owned or operated by the same person and transferred to the hazardous waste facility, for treatment, storage or disposal, for inspections conducted by the department to determine compliance with sections 260.350 to 260.430 and the

regulations promulgated thereunder. Funds derived from these inspection fees shall be used for the purpose of funding the inspection of hazardous waste facilities, as specified in subsection 3 of section 260.391. Such fees shall not exceed twelve thousand dollars per year per facility and the commission shall establish a graduated fee scale based on the volume of hazardous waste accepted with reduced fees for facilities accepting smaller volumes of hazardous waste. The department shall furnish, upon request, to the person, firm or corporation operating the hazardous waste facility a complete, full and detailed accounting of the cost of the department's inspections of the facility for the twelve-month period immediately preceding the request within forty-five days after receipt of the request. Failure to provide the accounting within forty-five days shall require the department to refund the inspection fee paid during the twelve-month-time period.

3. In addition to any other powers vested in it by law, the commission shall have the following powers:

(1) From time to time adopt, amend or repeal, after due notice and public hearing, standards, rules and regulations to implement, enforce and carry out the provisions of sections 260.350 to 260.430 and any required of this state by any federal hazardous waste management act and as the commission may deem necessary to provide for the safe management of hazardous wastes to protect the health of humans and the environment. In implementing this subsection, the commission shall consider the variations within this state in climate, geology, population density, quantities and types of hazardous wastes generated, availability of hazardous waste facilities and such other factors as may be relevant to the safe management of hazardous wastes. Within two years after September 28, 1977, the commission shall adopt rules and regulations including the following:

(a) Rules and regulations establishing criteria and a listing for the determination of whether any waste or combination of wastes is hazardous for the purposes of sections 260.350 to 260.430, taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics;

(b) Rules and regulations for the storage, treatment and disposal of hazardous wastes;

(c) Rules and regulations for the transportation, containerization and labeling of hazardous wastes, which shall be consistent with those issued by the Missouri public service commission;

(d) Rules and regulations establishing standards for the issuance, modification, suspension, revocation or denial of such licenses and permits as are consistent with the purposes of sections 260.350 to 260.430;

(e) Rules and regulations establishing standards and procedures for the safe operation and maintenance of hazardous waste facilities in order to protect the health of humans and other living organisms;

(f) Rules and regulations listing those wastes or combinations of wastes, for which criteria have been established under paragraph (a) of this subdivision and which are not compatible and which may not be stored or disposed of together;

(g) Rules and regulations establishing procedures and requirements for the reporting of the generation, storage, transportation, treatment or disposal of hazardous wastes;

(2) Adopt and publish, after notice as required by the provisions of chapter 536, RSMo, pertaining to administrative rulemaking, and public hearing, a state hazardous waste management plan to provide for the safe and effective management of hazardous wastes within this state. This plan shall be adopted within two years after September 28, 1977, and revised at least once every five years thereafter;

(3) Hold hearings, issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, administer oaths and take testimony as the commission deems necessary to accomplish the purposes of sections 260.350 to 260.430 or as required by any federal hazardous waste management act. Unless otherwise specified in sections 260.350 to 260.430, any of these powers may be exercised on behalf of the commission by any members thereof or a hearing officer designated by it;

(4) Grant individual variances in accordance with the provisions of sections 260.350 to 260.430;

(5) Make such orders as are necessary to implement, enforce and effectuate the powers, duties and purposes of sections 260.350 to 260.430.

4. No rule or portion of a rule promulgated under the authority of sections 260.350 to 260.480 and sections 260.565 to 260.575 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

5. To the extent there is a conflict concerning authority for risk-based remediation rules between this section and section 644.143, RSMo, or subdivision (8) of section 644.026, RSMo, this section shall prevail.

[6. Beginning July 1, 2004, a joint committee appointed by the speaker of the house of representatives and the president pro tem of the senate shall consider proposals for restructuring the fees paid by hazardous waste generators and hazardous waste facilities. The committee shall consider options for expanding the fee structure to more fairly apportion the cost of services provided among all those that benefit from those services. The committee shall prepare and submit a report including its recommendation for changes to the governor, the house of representatives, and the senate no later than December 31, 2004.]

288.090. CONTRIBUTIONS REQUIRED, WHEN — PAYMENTS IN LIEU OF CONTRIBUTIONS, PROCEDURES — COMMON PAYMASTER ARRANGEMENTS. — 1. Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this law. Such contributions shall become due and be paid by each employer to the division for the fund on or before the last day of the month following each calendar quarterly period of three months except when regulation requires monthly payment. Any employer upon application, or pursuant to a general or special regulation, may be granted an extension of time, not exceeding three months, for the making of his or her quarterly contribution and wage reports or for the payment of such contributions. Payment of contributions due shall be made to the treasurer designated pursuant to section 288.290.

(1) In the payment of any contributions due, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent;

(2) Contributions shall not be deducted in whole or in part from the wages of individuals in employment.

2. As of June thirtieth of each year, the division shall establish an average industry contribution rate for the next succeeding calendar year for each of the industrial classification divisions listed in the industrial classification system established by the federal government. The average industry contribution rate for each standard industrial classification division shall be computed by multiplying total taxable wages paid by each employer in the industrial classification division during the twelve consecutive months ending on June thirtieth by the employer's contribution rate established for the next calendar year and dividing the aggregate product for all employers in the industrial classification division by the total of taxable wages paid by all employers in the industrial classification division during the twelve consecutive months ending on June thirtieth. Each employer will be assigned to an industrial classification code division as determined by the division in accordance with the definitions contained in the industrial classification system established by the federal government, and shall pay contributions at the average industry rate established for the preceding calendar year for the industrial classification division to which it is assigned or two and seven-tenths percent of taxable wages paid by it, whichever is the greater, unless there have been at least twelve consecutive calendar months immediately preceding the calculation date throughout which its account could have been charged with benefits. The division shall classify all employers meeting this chargeability requirement for each calendar year in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such experience. The division shall

determine the contribution rate of each such employer in accordance with sections 288.113 to 288.126. Notwithstanding the provisions of this subsection, any employing unit which becomes an employer pursuant to the provisions of subsection 7 or 8 of section 288.034 shall pay contributions equal to one percent of wages paid by it until its account has been chargeable with benefits for the period of time sufficient to enable it to qualify for a computed rate on the same basis as other employers.

3. Benefits paid to employees of any governmental entity and nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection, a "nonprofit organization" is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code.

(1) A governmental entity which, pursuant to subsection 7 of section 288.034, or nonprofit organization which, pursuant to subsection 8 of section 288.034, is, or becomes, subject to this law on or after April 27, 1972, shall pay contributions due under the provisions of subsections 1 and 2 of this section unless it elects, in accordance with this subdivision, to pay to the division for the unemployment compensation fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such governmental entity or nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election; except that, with respect to benefits paid for weeks of unemployment beginning on or after January 1, 1979, any such election by a governmental entity shall be to pay to the division for the unemployment compensation fund an amount equal to the amount of all regular benefits and all extended benefits paid that is attributable to service in the employ of such governmental entity.

(a) A governmental entity or nonprofit organization which is, or becomes, subject to this law on or after April 27, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year, provided it files with the division a written notice of its election within the thirty-day period immediately following the date of the determination of such subjectivity. The provisions of paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100 shall not apply in the calendar year 1998 and each calendar year thereafter, in the case of an employer who has elected to become liable for payments in lieu of contributions.

(b) A governmental entity or nonprofit organization which makes an election in accordance with paragraph (a) of this subdivision will continue to be liable for payments in lieu of contributions until it files with the division a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall first be effective.

(c) A governmental entity or any nonprofit organization which has been paying contributions under this law for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the division not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next calendar year.

(d) The division, in accordance with such regulations as may be adopted, shall notify each governmental entity or nonprofit organization of any determination of its status of an employer and of the effective date of any election which it makes and of any termination of such election. Such determination shall be subject to appeal as is provided in subsection 4 of section 288.130.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of paragraph (a) of this subdivision, as follows:

(a) At the end of each calendar quarter, or at the end of any other period as determined by the director, the division shall bill the governmental entity or nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid

during such quarter or other prescribed period that is attributable to service in the employ of such organization; except that, with respect to extended benefits paid for weeks of unemployment beginning on or after January 1, 1979, which are attributable to service in the employ of a governmental entity, the governmental entity shall be billed for the full amount of such extended benefits.

(b) Payment of any bill rendered under paragraph (a) of this subdivision shall be due and shall be made not later than thirty days after such bill was mailed to the last known address of the governmental entity or nonprofit organization or was otherwise delivered to it.

(c) Payments made by the governmental entity or nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(d) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that apply to past due contributions. Also, unpaid amounts in lieu of contributions, interest, penalties and surcharges are subject to the same assessment, civil action and compromise provisions of this law as apply to unpaid contributions. Further, the provisions of this law which provide for the adjustment or refund of contributions shall apply to the adjustment or refund of payments in lieu of contributions.

(3) If any governmental entity or nonprofit organization fails to timely file a required quarterly wage report, the division shall assess such entity or organization a penalty as provided in subsections 1 and 2 of section 288.160.

(4) Except as provided in subsection 4 of this section, each employer that is liable for payments in lieu of contributions shall pay to the division for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer; except that, with respect to benefits paid for weeks of unemployment beginning on or after January 1, 1979, a governmental entity that is liable for payments in lieu of contributions shall pay to the division for the fund the amount of all regular benefits and all extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer in the base period of the claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period.

(5) Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of subdivision (1) of this subsection, may file a joint application to the division for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subdivision. Upon approval of the application, the division shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the application was received and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the director or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bears to the total wages paid during such quarter for service performed in the employ of all members of the group. The director shall prescribe such regulations as he or she deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subdivision by members of the group and the time and manner of such payments.

4. Any employer which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in subdivision (1) of subsection 3 of this section shall not be liable to make such payments with respect to the benefits paid to any individual whose base period wages include wages for previous work not classified as insured work as defined in section 288.030 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to Section 121 of Public Law 94-566.

5. [Any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation trust fund in an amount equal to the interest rate on United States treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit payments charged to the employer's account. Governmental entities except cities, counties and the state of Missouri which elect to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation fund in an amount equal to one-half of the interest rate on United States treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit payments charged to the employer's account. The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for all employers electing to make payments in lieu of contributions shall not exceed the summation of total benefit payments chargeable and not chargeable for the calendar quarter. The provisions of this subsection shall not be effective after September 30, 1993.

6. Beginning October 1, 1993, through December 31, 1993, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation trust fund in an amount equal to the interest rate of United States treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit payments charged to the employer's account. The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for all employers electing to make payments in lieu of contributions shall not exceed the summation of total benefit payments chargeable and not chargeable for the calendar quarter.

7. Beginning January 1, 1994, through December 31, 1995, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation trust fund. The calendar year surcharge rate will be the base prime rate on corporate loans posted by at least seventy-five percent of the nation's thirty largest banks as of November thirtieth of the preceding year. The additional surcharge will be the surcharge rate multiplied by the total benefit payments charged to the employer's account. The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for all employers electing to make payments in lieu of contributions shall not exceed the summation of total benefit payments chargeable and not chargeable for the calendar quarter.

8. Beginning January 1, 1996, through December 31, 1996, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for the total benefit payments chargeable to its account pursuant to the provisions of section 288.100 plus one-third of the total benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100. The remaining two-thirds of the benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100 shall be paid by the unemployment compensation trust fund.

9. Beginning January 1, 1997, through December 31, 1997, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for the total benefit payments chargeable to its account pursuant to the provisions of section 288.100 plus two-thirds of the total benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100. The remaining one-third of the benefit payments not charged to its account pursuant to paragraphs (a) through (e) of

subdivision (4) of subsection 1 of section 288.100 shall be paid by the unemployment compensation trust fund.

10.] Beginning January 1, 1998, and each calendar year thereafter, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for all benefit payments and shall not have charges relieved pursuant to the provisions of paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100.

[11.] 6. (1) For the purposes of this chapter, a common paymaster arrangement will not exist unless approval has been obtained from the division. To receive a division-approved common paymaster arrangement, the related corporation designated to be the common paymaster for the related corporations must notify the division in writing at least thirty days prior to the beginning of the quarter in which the common paymaster reporting is to be effective. The common paymaster shall furnish the name and account number of each corporation in the related group that will be utilizing the one corporation as the common paymaster. The common paymaster shall also notify the division at least thirty days prior to any change in the related group of corporations or termination of the common paymaster arrangement. The common paymaster shall be responsible for keeping books and records for the payroll with respect to its own employees and the concurrently employed individuals of the related corporations. In order for remuneration to be eligible for the provisions applicable to a common paymaster, the individuals must be concurrently employed and the remuneration must be disbursed through the common paymaster. The common paymaster shall have the primary responsibility for remitting all required quarterly contribution and wage reports, contributions due with respect to the remuneration it disburses as the common paymaster and/or payments in lieu of contributions. The common paymaster shall compute the contributions due as though it were the sole employer of the concurrently employed individuals. If the common paymaster fails to remit the quarterly contribution and wage reports, contributions due and/or payments in lieu of contributions, in whole or in part, it shall remain liable for submitting the quarterly contribution and wage reports and the full amount of the unpaid portion of the contributions due and/or payments in lieu of contributions. In addition, each of the related corporations using the common paymaster shall be jointly and severally liable for submitting quarterly contribution and wage reports, its share of the contributions due and/or payments in lieu of contributions, penalties, interest and surcharges which are not submitted and/or paid by the common paymaster. All contributions due, payments in lieu of contributions, penalties, interest and surcharges which are not timely paid to the division under a common paymaster arrangement shall be subject to the collection provisions of this chapter.

(2) For the purposes of this subsection, "concurrent employment" means the simultaneous existence of an employment relationship between an individual and two or more related corporations for any calendar quarter in which employees are compensated through a common paymaster which is one of the related corporations, those corporations shall be considered one employing unit and be subject to the provisions of this chapter.

(3) For the purposes of this subsection, "related corporations" means that corporations shall be considered related corporations for an entire calendar quarter if they satisfy any one of the following tests at any time during the calendar quarter:

(a) The corporations are members of a "controlled group of corporations". The term "controlled group of corporations" means:

a. Two or more corporations connected through stock ownership with a common parent corporation, if the parent corporation owns stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of each of the other corporations; or

b. Two or more corporations, if five or less persons who are individuals, estates or trusts own stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of each of the other corporations; or

(b) In the case of corporations which do not issue stock, at least fifty percent of the members of one corporation's board of directors are members of the board of directors of the other corporations; or

(c) At least fifty percent of one corporation's officers are concurrently officers of the other corporations; or

(d) At least thirty percent of one corporation's employees are concurrently employees of the other corporations.

303.026. DIRECTOR TO NOTIFY OWNERS WHO REGISTER VEHICLES, CONTENTS — AFFIDAVIT CERTIFYING FINANCIAL RESPONSIBILITY REQUIRED FOR REGISTRATION — DIRECTOR MAY USE SAMPLING TECHNIQUES TO VERIFY — VERIFICATION BY OWNER, TIME — INSURERS REQUIRED TO SUBMIT POLICY INFORMATION TO DIRECTOR, FORMAT, USE, DISCLOSURE — VIOLATIONS BY INSURER, PENALTY. — 1. The director shall inform each owner who registers a motor vehicle of the following:

(1) The existence of the requirement that every motor vehicle owner in the state must maintain his financial responsibility;

(2) The requirement that every motor vehicle owner show an insurance identification card, or a copy thereof, or other proof of financial responsibility at the time of vehicle registration; this notice shall be given at least thirty days prior to the month for renewal and shall be shown in bold, colored print;

(3) The penalties which apply to violations of the requirement to maintain financial responsibility;

(4) The benefits of maintaining coverages in excess of those which are required;

(5) The director's authority to conduct samples of Missouri motor vehicle owners to ensure compliance.

2. No motor vehicle owner shall be issued registration for a vehicle unless the owner, or his authorized agent, signs an affidavit provided by the director of revenue at the time of registration of the vehicle certifying that such owner has and will maintain, during the period of registration, financial responsibility with respect to each motor vehicle that is owned, licensed or operated on the streets or highways. The affidavit need not be notarized, but it shall be acknowledged by the person processing the form. The affidavit shall state clearly and in bold print the following: "Any false affidavit is a crime under section 575.050 of Missouri law.". In addition, every motor vehicle owner shall show proof of such financial responsibility by presenting his or her insurance identification card, as described in section 303.024, or a copy thereof, or some other proof of financial responsibility in the form prescribed by the director of revenue at the time of registration unless such owner registers his vehicle in conjunction with a reciprocity agreement entered into by the Missouri highway reciprocity commission pursuant to sections 301.271 to 301.279, RSMo, or unless the owner insures the vehicle according to the requirements of the division of motor carrier and railroad safety pursuant to section 390.126, RSMo.

3. To ensure compliance with this chapter, the director may utilize a variety of sampling techniques including but not limited to random samples of registrations subject to this section, uniform traffic tickets, insurance information provided to the director at the time of motor vehicle registration, and persons who during the preceding year have received a disposition of court-ordered supervision or suspension. The director may verify the financial responsibility of any person sampled or reported.

(1) Beginning January 1, 2001, the director may require such information, as in his or her discretion is necessary to enforce the requirements of subdivision (1) of subsection 1 of this section, to be submitted from the person's insurer or insurance company. When requested by the director of revenue, all licensed insurance companies in this state which sell private passenger (noncommercial) motor vehicle insurance policies shall report information regarding the issuance, nonrenewal and cancellation of such policies to the director, excluding policies issued

to owners of fleet or rental vehicles or issued on vehicles that are insured pursuant to a commercial line policy. Such information shall be reported electronically in a format as prescribed by the director of the department of revenue by rule except that such rule shall provide for an exemption from electronic reporting for insurers with a statistically insignificant number of policies in force.

(2) [The director may require the data described in subsection 2 of section 303.412 to be reported by insurance companies and require reporting periods of at least once per month.] When required by the director of revenue, each insurance company shall provide to the department a record of each policy issued, canceled, terminated or revoked during the period since the previous report. Nothing in this section shall prohibit insurance companies from reporting more frequently than once per month.

(3) The director may use reports described in subdivision (1) of this subsection for sampling purposes as provided in this section.

4. Information provided to the department by an insurance company for use in accordance with this section is the property of the insurer and is not subject to disclosure pursuant to chapter 610, RSMo. Such information may be utilized by the department for enforcement of this chapter but may not be disclosed except that the department shall disclose whether an individual is maintaining the required insurance coverage upon request of the following individuals and agencies only:

- (1) The individual;
- (2) The parent or legal guardian of an individual if the individual is an unemancipated minor;
- (3) The legal guardian of the individual if the individual is legally incapacitated;
- (4) Any person who has power of attorney from the individual;
- (5) Any person who submits a notarized release from the individual that is dated no more than ninety days before the request is made;
- (6) Any person claiming loss or injury in a motor vehicle accident in which the individual is involved;
- (7) The office of the state auditor, for the purpose of conducting any audit authorized by law.

5. The director[, after consultation with the working group as provided for in section 303.406,] may adopt any rules and regulations necessary to carry out the provisions of subdivisions (1) through (3) of subsection 3 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

6. Any person or agency who knowingly discloses information received from insurance companies pursuant to this section for any purpose, or to a person, other than those authorized in this section is guilty of a class A misdemeanor. No insurer shall be liable to any person for performing its duties pursuant to this section unless and to the extent the insurer commits a willful and wanton act of omission.

7. The department of revenue shall notify the department of insurance, financial institutions and professional registration of any insurer who violates any provisions of this section. The department of insurance, financial institutions and professional registration may, against any insurer who knowingly fails to comply with this section, assess an administrative penalty up to five hundred dollars per day of noncompliance. The department of insurance, financial institutions and professional registration may excuse the administrative penalty if an assessed insurer provides acceptable proof that such insurer's noncompliance was inadvertent, accidental

or the result of excusable neglect. The penalty provisions of this section shall become effective six months after the rule issued pursuant to subsections 3 and 5 of this section is published in the code of state regulations.

8. To verify that financial responsibility is being maintained, the director shall notify the owner or operator of the need to provide, within fifteen days, proof of the existence of the required financial responsibility. The request shall require the owner or the operator to state whether or not the motor vehicle was insured on the verification date stated in the director's request. The request may include but not be limited to a statement of the names and addresses of insurers, policy numbers and expiration date of insurance coverage. Failure to provide such information shall result in the suspension of the registration of the owner's motor vehicle, and where applicable, the owner's or the operator's driving privilege, for failing to meet such requirements, as is provided in this chapter.

313.008. GAMING COMMISSION BINGO FUND ABOLISHED AND TRANSFERRED TO GAMING COMMISSION FUND WHEN, USED FOR CERTAIN PURPOSES. — All revenue received by the commission from license fees, penalties, and administrative fees authorized under the provisions of sections 313.005 to 313.085 shall be deposited in the state treasury to the credit of the "Gaming Commission Fund", and upon appropriation may be used for the purposes specified in section 313.835. [All unobligated funds in the gaming commission bingo fund on August 28, 2000, shall be transferred to the gaming commission fund and the gaming commission bingo fund shall be abolished on June 30, 2001.]

313.835. GAMING COMMISSION FUND CREATED, PURPOSE, EXPENDITURES — DISPOSITION OF PROCEEDS OF GAMING COMMISSION FUND. — 1. All revenue received by the commission from license fees, penalties, administrative fees, reimbursement by any excursion gambling boat operators for services provided by the commission and admission fees authorized pursuant to the provisions of sections 313.800 to 313.850, except that portion of the admission fee, not to exceed one cent, that may be appropriated to the compulsive gamblers fund as provided in section 313.820, shall be deposited in the state treasury to the credit of the "Gaming Commission Fund" which is hereby created for the sole purpose of funding the administrative costs of the commission, subject to appropriation. Moneys deposited into this fund shall not be considered proceeds of gambling operations. Moneys deposited into the gaming commission fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming commission fund shall be credited to the gaming commission fund. In each fiscal year, total revenues to the gaming commission fund for the preceding fiscal year shall be compared to total expenditures and transfers from the gaming commission fund for the preceding fiscal year. The remaining net proceeds in the gaming commission fund shall be distributed in the following manner:

(1) The first five hundred thousand dollars shall be appropriated on a per capita basis to cities and counties that match the state portion and have demonstrated a need for funding community neighborhood organization programs for the homeless and to deter gang-related violence and crimes;

(2) The remaining net proceeds in the gaming commission fund for fiscal year 1998 and prior years shall be transferred to the "Veterans' Commission Capital Improvement Trust Fund", as hereby created in the state treasury. The state treasurer shall administer the veterans' commission capital improvement trust fund, and the moneys in such fund shall be used solely, upon appropriation, by the Missouri veterans' commission for:

(a) The construction, maintenance or renovation or equipment needs of veterans' homes in this state;

(b) The construction, maintenance, renovation, equipment needs and operation of veterans' cemeteries in this state;

(c) Fund transfers to Missouri veterans' homes fund established pursuant to the provisions of section 42.121, RSMo, as necessary to maintain solvency of the fund;

(d) Fund transfers to any municipality with a population greater than four hundred thousand and located in part of a county with a population greater than six hundred thousand in this state which has established a fund for the sole purpose of the restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I. Appropriations from the veterans' commission capital improvement trust fund to such memorial fund shall be provided only as a one-time match for other funds devoted to the project and shall not exceed five million dollars. Additional appropriations not to exceed ten million dollars total may be made from the veterans' commission capital improvement trust fund as a match to other funds for the new construction or renovation of other facilities dedicated as veterans' memorials in the state. All appropriations for renovation, new construction, reconstruction, and maintenance of veterans' memorials shall be made only for applications received by the Missouri veterans' commission prior to July 1, 2004;

(e) The issuance of matching fund grants for veterans' service officer programs to any federally chartered veterans' organization or municipal government agency that is certified by the Veterans Administration to process veteran claims within the Veterans Administration System; provided that such veterans' organization has maintained a veterans' service officer presence within the state of Missouri for the three-year period immediately preceding the issuance of any such grant. A total of one million dollars in grants shall be made available annually with grants being issued in July of each year. Application for the matching grants shall be made through and approved by the Missouri veterans' commission based on the requirements established by the commission;

(f) For payment of Missouri national guard and Missouri veterans' commission expenses associated with providing medals, medallions and certificates in recognition of service in the armed forces of the United States during World War II and the Korean Conflict pursuant to sections 42.170 to 42.206, RSMo. Any funds remaining from the medals, medallions and certificates shall not be transferred to any other fund and shall only be utilized for the awarding of future medals, medallions, and certificates in recognition of service in the armed forces; and

(g) Fund transfers totaling ten million dollars to any municipality with a population greater than three hundred fifty thousand inhabitants and located in part in a county with a population greater than six hundred thousand inhabitants and with a charter form of government, for the sole purpose of the construction, restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I. Any interest which accrues to the fund shall remain in the fund and shall be used in the same manner as moneys which are transferred to the fund pursuant to this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the veterans' commission capital improvement trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund;

(3) The remaining net proceeds in the gaming commission fund for fiscal year 1999 and each fiscal year thereafter shall be distributed as follows:

(a) The first four and one-half million dollar portion shall be transferred to the access Missouri financial assistance fund, established pursuant to the provisions of sections 173.1101 to 173.1107, RSMo, and additional moneys as annually appropriated by the general assembly shall be appropriated to such fund;

(b) The second three million dollar portion shall be transferred to the veterans' commission capital improvement trust fund;

(c) The third three million dollar portion shall be transferred to the Missouri national guard trust fund created in section 41.214, RSMo;

(d) Subject to appropriations, one hundred percent of remaining net proceeds in the gaming commission fund except as provided in paragraph (l) of this subdivision, and after the appropriations made pursuant to the provisions of paragraphs (a), (b), and (c) of this subdivision, shall be transferred to the "Early Childhood Development, Education and Care Fund" which is

hereby created to give parents meaningful choices and assistance in choosing the child-care and education arrangements that are appropriate for their family. All interest received on the fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. Any moneys deposited in such fund shall be used to support programs that prepare children prior to the age in which they are eligible to enroll in kindergarten, pursuant to section 160.053, RSMo, to enter school ready to learn. All moneys deposited in the early childhood development, education and care fund shall be annually appropriated for voluntary, early childhood development, education and care programs serving children in every region of the state not yet enrolled in kindergarten;

(e) No less than sixty percent of moneys deposited in the early childhood development, education and care fund shall be appropriated as provided in this paragraph to the department of elementary and secondary education and to the department of social services to provide early childhood development, education and care programs through competitive grants to, or contracts with, governmental or private agencies. Eighty percent of such moneys pursuant to the provisions of this paragraph and additional moneys as appropriated by the general assembly shall be appropriated to the department of elementary and secondary education and twenty percent of such moneys pursuant to the provisions of this paragraph shall be appropriated to the department of social services. The departments shall provide public notice and information about the grant process to potential applicants:

- a. Grants or contracts may be provided for:
 - (i) Start-up funds for necessary materials, supplies, equipment and facilities; and
 - (ii) Ongoing costs associated with the implementation of a sliding parental fee schedule based on income;
- b. Grant and contract applications shall, at a minimum, include:
 - (i) A funding plan which demonstrates funding from a variety of sources including parental fees;
 - (ii) A child development, education and care plan that is appropriate to meet the needs of children;
 - (iii) The identity of any partner agencies or contractual service providers;
 - (iv) Documentation of community input into program development;
 - (v) Demonstration of financial and programmatic accountability on an annual basis;
 - (vi) Commitment to state licensure within one year of the initial grant, if funding comes from the appropriation to the department of elementary and secondary education and commitment to compliance with the requirements of the department of social services, if funding comes from the department of social services; and
 - (vii) With respect to applications by public schools, the establishment of a parent advisory committee within each public school program;
- c. In awarding grants and contracts pursuant to this paragraph, the departments may give preference to programs which:
 - (i) Are new or expanding programs which increase capacity;
 - (ii) Target geographic areas of high need, namely where the ratio of program slots to children under the age of six in the area is less than the same ratio statewide;
 - (iii) Are programs designed for special needs children;
 - (iv) Are programs that offer services during nontraditional hours and weekends; or
 - (v) Are programs that serve a high concentration of low-income families;

[d. Beginning on August 28, 1998, the department of elementary and secondary education and the department of social services shall initiate and conduct a four-year study to evaluate the impact of early childhood development, education and care in this state. The study shall consist of an evaluation of children eligible for moneys pursuant to this paragraph, including an evaluation of the early childhood development, education and care of those children participating in such program and those not participating in the program over a four-year period. At the

conclusion of the study, the department of elementary and secondary education and the department of social services shall, within ninety days of conclusion of the study, submit a report to the general assembly and the governor, with an analysis of the study required pursuant to this subparagraph, all data collected, findings, and other information relevant to early childhood development, education and care;]

(f) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide early childhood development, education and care programs through child development, education and care certificates to families whose income does not exceed one hundred eighty-five percent of the federal poverty level in the manner pursuant to 42 U.S.C. 9858c(c)(2)(A) and 42 U.S.C. 9858n(2) for the purpose of funding early childhood development, education and care programs as approved by the department of social services. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. On February first of each year the department shall certify the total amount of child development, education and care certificates applied for and the unused balance of the funds shall be released to be used for supplementing the competitive grants and contracts program authorized pursuant to paragraph (e) of this subdivision;

(g) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to increase reimbursements to child-care facilities for low-income children that are accredited by a recognized, early childhood accrediting organization;

(h) No less than ten percent of the funds deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide assistance to eligible parents whose family income does not exceed one hundred eighty-five percent of the federal poverty level who wish to care for their children under three years of age in the home, to enable such parent to take advantage of early childhood development, education and care programs for such parent's child or children. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. The department of social services shall provide assistance to these parents in the effective use of early childhood development, education and care tools and methods;

(i) In setting the value of parental certificates under paragraph (f) of this subdivision and payments under paragraph (h) of this subdivision, the department of social services may increase the value based on the following:

a. The adult caretaker of the children successfully participates in the parents as teachers program pursuant to the provisions of sections 178.691 to 178.699, RSMo, a training program provided by the department on early childhood development, education and care, the home-based Head Start program as defined in 42 U.S.C. 9832 or a similar program approved by the department;

b. The adult caretaker consents to and clears a child abuse or neglect screening pursuant to subdivision (1) of subsection 2 of section 210.152, RSMo; and

c. The degree of economic need of the family;

(j) The department of elementary and secondary education and the department of social services each shall by rule promulgated pursuant to chapter 536, RSMo, establish guidelines for the implementation of the early childhood development, education and care programs as provided in paragraphs (e) through (i) of this subdivision;

(k) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in paragraph (j) of this subdivision shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and

repealed as of August 28, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998;

(l) When the remaining net proceeds, as such term is used pursuant to paragraph (d) of this subdivision, in the gaming commission fund annually exceeds twenty-eight million dollars: one-half million dollars of such proceeds shall be transferred annually, subject to appropriation, to the access Missouri financial assistance fund, established pursuant to the provisions of sections 173.1101 to 173.1107, RSMo; three million dollars of such proceeds shall be transferred annually, subject to appropriation, to the veterans' commission capital improvement trust fund; and one million dollars of such proceeds shall be transferred annually, subject to appropriation, to the Missouri national guard trust fund created in section 41.214, RSMo.

2. Upon request by the veterans' commission, the general assembly may appropriate moneys from the veterans' commission capital improvements trust fund to the Missouri national guard trust fund to support the activities described in section 41.958, RSMo.

329.028. BOARD OF COSMETOLOGY AND BARBER EXAMINERS FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury a fund to be known as the "Board of Cosmetology and Barber Examiners Fund", which shall consist of all moneys collected by the board. All fees provided for in this chapter and chapter 328, RSMo, shall be payable to the director of the division of professional registration, who shall keep a record of the account showing the total payments received and shall immediately thereafter transmit them to the department of revenue for deposit in the state treasury to the credit of the board of cosmetology and barber examiners fund. All the salaries and expenses for the operation of the board shall be appropriated and paid from such fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule license renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

[3. Upon appointment by the governor and confirmation by the senate of the board, all moneys deposited in the board of barbers fund created in section 328.050, RSMo, and the state board of cosmetology fund created in section 329.240, shall be transferred to the board of cosmetology and barber examiners fund created in subsection 1 of this section. The board of barbers fund and the state board of cosmetology fund shall be abolished when all moneys are transferred to the board of cosmetology and barber examiners fund.]

376.671. PROVISIONS WHICH SHALL BE CONTAINED IN ANNUITY CONTRACTS — INAPPLICABILITY DATE. — 1. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any

contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

2. In the case of contracts issued on or after the operative date of this section as defined in subsection 11 of this section, no contract of annuity, except as stated in subsection 1 of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9 of this section;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9 of this section. The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits;

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract. Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payment shall be equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum; and

(b) The amount of any indebtedness to the company on the contract, including interest due and accrued and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent of the net consideration for the first contract year and

eighty-seven and one-half percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent;

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent of the net consideration for the first contract year plus twenty-two and one-half percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years;

(b) The annual contract charge shall be the lesser of thirty dollars or ten percent of the gross annual consideration;

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent, and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars;

(4) Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2002, and before July 1, 2006, the interest rate at which net considerations, prior withdrawals, and partial surrenders shall be accumulated, for the purpose of determining minimum nonforfeiture amounts, shall be one and one-half percent per annum.

4. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

5. For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

6. For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit.

However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

7. For the purpose of determining the benefits calculated under subsections 5 and 6 of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity date, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

8. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

9. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections 4, 5, 6, 7, and 9 of this section, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

11. After September 28, 1979, any company may file with the director a written notice of its election to comply with the provisions of this section after a specified date before September 28, 1981. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be September 28, 1981.

12. The provisions of this section shall [expire on] **not apply to any new contract entered into after July 1, 2006.**

488.5345. COST OF NECESSARY CLOTHING FOR PRISONER, HOW PAID. — In case of any prisoner confined in any jail in this state on a charge of felony being in want of needful and necessary clothing, it shall be the duty of the jailer to procure the same, and to present his or her account therefor to the court having criminal jurisdiction for the county; and on such court being satisfied of the correctness of such account, shall certify the same for payment [as provided in section 221.140, RSMo.] as other costs in criminal cases, to the state [auditor].

537.675. TORT VICTIMS' COMPENSATION FUND ESTABLISHED — DEFINITIONS — NOTIFICATION OF PUNITIVE DAMAGE AWARD TO ATTORNEY GENERAL, LIEN FOR DEPOSIT INTO FUND — LEGAL SERVICES FOR LOW-INCOME PEOPLE. — 1. As used in sections 537.675 through 537.693, the following terms mean:

- (1) "Annual claims", that period of time commencing on the first day of January of every year after December 31, 2002, and ending on the last day of that calendar year;
- (2) "Commission", the labor and industrial relations commission;
- (3) "Division", the division of workers' compensation;
- (4) ["Initial claims period", that period commencing on August 28, 2001, and ending on December 31, 2002;

(5)] "Punitive damage final judgment", an award for punitive damages excluding interest that is no longer subject to review by courts of this state or of the United States;

[(6)] (5) "Uncompensated tort victim", a person who:

(a) Is a party in a personal injury or wrongful death lawsuit; or is a tort victim whose claim against the tort-feasor has been settled for the policy limits of insurance covering the liability of such tort-feasor and such policy limits are inadequate in light of the nature and extent of damages due to the personal injury or wrongful death;

(b) Unless described in paragraph (a) of this subdivision:

a. Has obtained a final monetary judgment in that lawsuit described in paragraph (a) of this subdivision against a tort-feasor for personal injuries, or wrongful death in a case in which all appeals are final;

b. Has exercised due diligence in enforcing the judgment; and

c. Has not collected the full amount of the judgment;

(c) Is not a corporation, company, partnership or other incorporated or unincorporated commercial entity;

(d) Is not any entity claiming a right of subrogation;

(e) Was not on house arrest and was not confined in any federal, state, regional, county or municipal jail, prison or other correctional facility at the time he or she sustained injury from the tort-feasor;

(f) Has not pleaded guilty to or been found guilty of two or more felonies, where such two or more felonies occurred within ten years of the occurrence of the tort in question, and where either of such felonies involved a controlled substance or an act of violence; and

(g) Is a resident of the state of Missouri or sustained personal injury or death by a tort which occurred in the state of Missouri.

2. There is created the "Tort Victims' Compensation Fund". Unexpended moneys in the fund shall not lapse at the end of the biennium as provided in section 33.080, RSMo.

3. Any party receiving a judgment final for purposes of appeal for punitive damages in any case filed in any division of any circuit court of the state of Missouri shall notify the attorney general of the state of Missouri of such award, except for actions claiming improper health care pursuant to chapter 538, RSMo. The state of Missouri shall have a lien for deposit into the tort victims' compensation fund to the extent of fifty percent of the punitive damage final judgment which shall attach in any such case after deducting attorney's fees and expenses. In each case, the attorney general shall serve a lien notice by certified mail or registered mail upon the party or parties against whom the state has a claim for collection of its share of a punitive damage final judgment. On a petition filed by the state, the court, on written notice to all interested parties, shall adjudicate the rights of the parties and enforce the lien. The lien shall not be satisfied out of any recovery until the attorney's claim for fees and expenses is paid. The state can file its lien in all cases where punitive damages are awarded upon the entry of the judgment final for purposes of appeal. The state cannot enforce its lien until there is a punitive damage final judgment. Cases resolved by arbitration, mediation or compromise settlement prior to a punitive damage final judgment are exempt from the provisions of this section. Nothing in this section shall hinder or in any way affect the right or ability of the parties to any claim or lawsuit to compromise or settle such claim or litigation on any terms and at any time the parties desire.

4. The state of Missouri shall have no interest in or right to intervene at any stage of any judicial proceeding pursuant to this section, except to enforce its lien rights as provided in subsection 3 of this section.

5. Twenty-six percent of all payments deposited into the tort victims' compensation fund[, and all interest accruing on the principal regardless of source or designation], and any moneys remaining in the legal services for low-income people fund as of August 28, 2008,] shall be transferred to the basic civil legal services fund established in section 477.650, RSMo. Moneys in the tort victims' compensation fund shall not be used to pay any portion of a refund mandated by article X, section 18 of the constitution.

537.684. FILING OF A CLAIM, DETERMINING COMPENSATION, PROCEDURE — PAYMENT OF CLAIMS. — 1. A claim for compensation may be filed by a person eligible for compensation or, if the person is an incapacitated or disabled person, or a minor, by the person's spouse, parent, conservator or guardian.

2. A claim shall be filed not later than two years after the judgment upon which it is based becomes final and all appeals are final[, except with regard to the initial claims period]. If there is no judgment, claims must be filed within time limits prescribed pursuant to section 516.120, RSMo, except for cases resulting in death, in which case claims must be filed within time limits prescribed pursuant to section 537.100[, except with regard to the initial claims period. With regard to the initial claims period, any claim may be filed that is based upon a judgment that is not expired or that is based upon a claim not reduced to judgment for a reason allowed by subsection 2 of section 537.678, and which would not be barred by the applicable statute of limitations if the tort-feasor could be served with process or had not taken bankruptcy].

3. Each claim shall be filed in person or by mail. The division shall investigate such claim prior to the opening of formal proceedings. The director of the division shall assign an administrative law judge, associate administrative law judge or legal advisor within the division to hear any claim for compensation filed. The claimant shall be notified of the date and time of any hearing on the claim. In determining the amount of compensation for which a claimant is eligible, the division shall:

- (1) Consider the facts stated on the application filed pursuant to section 537.678;
- (2) Obtain a copy of the final judgment, if any, from the appropriate court;
- (3) Determine the amount of the loss to the claimant, or the victim's survivors or dependents; and
- (4) If there is no final judgment, determine the degree or extent to which the victim's acts or conduct provoked, incited or contributed to the injuries or death of the victim.

4. The claimant may present evidence and testimony on his or her own behalf or may retain counsel.

5. Prior to any hearing, the person filing a claim shall submit reports, if available, from all hospitals, physicians or surgeons who treated or examined the victim for the injury for which compensation is sought. If, in the opinion of the division, an examination of the injured victim or a report on the cause of death of the victim would be of material aid, the division may appoint a duly qualified, impartial physician to make an examination and report. A finding of the judge or jury in the underlying case shall be considered as evidence.

6. Each and every payment shall be exempt from attachment, garnishment or any other remedy available to creditors for the collection of a debt, provided however, this section shall not in any way affect the right of any attorney who represents or represented any claimant to collect any fee or expenses to which he or she is entitled.

7. Payments of compensation shall not be made directly to any person legally incompetent to receive them but shall be made to the parent, guardian or conservator for the benefit of such minor, disabled or incapacitated person.

8. For payment of all claims from the fund [shall be made on the following basis, to wit:

- (1) With regard to all claims that are made during the initial claims period, the division shall determine the aggregated amount of all awards made on these claims. Such determination shall be made on or before June 30, 2003. If the aggregate value of the awards does not exceed the total amount of money in the fund, then the awards shall be paid in full on or before September

30, 2003. If the aggregate value of the awards does exceed the total amount of money in the fund, then the awards shall be paid on a pro rata basis on or before September 30, 2003;

(2) With regard to all claims that are made after the initial claims period], the division shall determine the aggregate amount of all awards made on those claims filed during an annual claims period. Such determination shall be made on or before the thirtieth day of June in the next succeeding year. If the aggregate value of the awards does not exceed the total amount of money in the fund, then the awards shall be paid in full on or before the thirtieth day of September in the next succeeding year. If the aggregate value of the awards does exceed the total amount of money in the fund, then the awards shall be paid on a pro rata basis on or before the thirtieth day of September in the next succeeding year.

9. If there are no funds available, then no claim shall be paid until funds have accumulated in the tort victims' compensation fund and have been appropriated to the division for payment to uncompensated tort victims. When sufficient funds become available for payment of claims of uncompensated tort victims, awards that have been determined but have not been paid shall be paid in chronological order with the oldest paid first, based upon the date on which the application was filed with the division. Any award pursuant to this subsection that cannot be paid due to a lack of funds appropriated for payment of claims of uncompensated tort victims shall not constitute a claim against the state.

10. In the event there are no funds available for payment of claims, then the division may suspend all action related to valuing claims and granting awards until such time as funds in excess of one hundred thousand dollars have accumulated in the tort victims' compensation fund, at which time the division shall resume its claim processing duties.

620.010. DEPARTMENT OF ECONOMIC DEVELOPMENT CREATED — DIVISIONS — AGENCIES — BOARDS AND COMMISSIONS — PERSONNEL — POWERS AND DUTIES — RULES, PROCEDURE. — 1. There is hereby created a "Department of Economic Development" to be headed by a director appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

2. [The office of director of the department of business and administration, chapter 35, RSMo, and others, is abolished and all powers, duties, personnel and property of that office, not previously reassigned by executive reorganization plan no. 1 of 1973 as submitted by the governor pursuant to chapter 26, RSMo, are transferred by type I transfer to the director of the department of economic development. The department of business and administration is hereby abolished.

3. The duties and responsibilities relating to subsection 2 of section 35.010, RSMo, are transferred by type I transfer to the personnel division, office of administration.

4.] The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, and 393, RSMo, and others, and the administrative hearing commission, sections 621.015 to 621.198, RSMo, and others, are transferred by type III transfers to the department of economic development. The director of the department is directed to provide and coordinate staff and equipment services to these agencies in the interest of facilitating the work of the bodies and achieving optimum efficiency in staff services common to all the bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service commission from presenting additional budget requests or from explaining or clarifying its budget requests to the governor or general assembly.

[5.] 3. The powers, duties and functions vested in the office of the public counsel are transferred by type III transfer to the department of economic development. Funding for the general counsel's office shall be by general revenue.

[6.] 4. The public service commission is authorized to employ such staff as it deems necessary for the functions performed by the general counsel other than those powers, duties and functions relating to representation of the public before the public service commission.

[7.] All the powers, duties and functions of the commerce and industrial development division and the industrial development commission, chapters 184 and 255, RSMo, and others, not otherwise transferred, are transferred by type I transfer to the department of economic development, and the industrial development commission is abolished. All powers, duties and functions of the division of commerce and industrial development and the division of community development are transferred by a type I transfer to the department of economic development, and the division of commerce and industrial development and the division of community development are abolished.

[8.] 5. All the powers, duties and functions vested in the tourism commission, chapter 258, RSMo, and others, are transferred to the "Division of Tourism", which is hereby created, by type III transfer.

[9.] 6. All the powers, duties and functions of the department of community affairs, chapter 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the department of economic development, and the department of community affairs is abolished. The director of the department of economic development may assume all the duties of the director of community affairs or may establish within the department such subunits and advisory committees as may be required to administer the programs so transferred. The director of the department shall appoint all members of such committees and heads of subunits.

[10.] 7. The state council on the arts, chapter 185, RSMo, and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

[11.] 8. The Missouri housing development commission, chapter 215, RSMo, is assigned to the department of economic development, but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

[12.] 9. All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of Job Development and Training", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

[13.] 10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

620.1023. BUSINESS EXTENSION SERVICE TEAM FUND CREATED — QUALIFIED COMMUNITY DEVELOPMENT PROJECTS — DEPARTMENT'S AUTHORITY TO CONTRACT DIRECTLY, PURPOSE — LAPSE INTO GENERAL REVENUE PROHIBITED. — 1. There is hereby created in the state treasury a revolving fund to be administered by the department of economic development to be known as the "Business Extension Service Team Fund". The fund shall consist of all moneys which may be appropriated to it by the general assembly, gifts, contributions, grants or bequests received from federal, private or other sources. A percentage of the moneys in such fund shall be used by the department for grants or loans for qualified

community development projects in order to create or retain jobs in any city not within a county, any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, any fourth class city with a population of at least three thousand five hundred inhabitants but not more than five thousand five hundred inhabitants which is located in a county of the first classification with a charter form of government with a population of at least nine hundred thousand inhabitants, and any third class city with a population of at least three thousand inhabitants but not more than five thousand five hundred inhabitants which is located in a county of the first classification with a charter form of government with a population of at least nine hundred thousand inhabitants, and shall be targeted toward economically blighted urban districts for new businesses, expansion of existing businesses and for employee training and housing. The department may require such grants or loans to be made on a matching fund basis. Any city that receives funding from the business extension service team fund may use up to ten percent of such grant or loan for administrative costs. As used in this subdivision, "economically blighted urban districts" means areas which meet all of the following criteria:

- (1) The area is one of pervasive poverty, unemployment, and general distress;
- (2) The area is located wholly within an area which meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974, as amended;
- (3) At least sixty-five percent of the residents living in the area have incomes below eighty percent of the median income of all residents within the state of Missouri according to the [last decennial census] **United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five** or other appropriate source as approved by the director of the department of economic development;
- (4) The resident population of the area is at least four thousand at the time of designation as an economically blighted urban district. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction; and
- (5) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director of the department of economic development, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than fifty percent of the statewide percentage of residents employed on a full-time basis.

2. The department of economic development may use a percentage of the moneys in the fund established in subsection 1 of this section to directly contract with community development corporations established pursuant to section 135.400, RSMo, for the provision of job training or for creating or retaining jobs in any area meeting the criteria outlined in subsection 1 of this section.

3. All moneys remaining in the business extension service team fund at the end of the fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, RSMo, but shall remain in the business extension service team fund.

644.054. FEES, BILLING AND COLLECTION — ADMINISTRATION, GENERALLY — FEES TO BECOME EFFECTIVE, WHEN — FEES TO EXPIRE, WHEN — VARIANCES GRANTED, WHEN. — 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective October 1, 1990, and shall expire December 31, 2010. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire on December 31, 2010. The clean water commission shall promulgate rules and regulations on the procedures for billing and collection. All sums received through the payment of fees shall be placed in the state treasury and credited to an appropriate subaccount of the natural resources

protection fund created in section 640.220, RSMo. Moneys in the subaccount shall be expended, upon appropriation, solely for the administration of sections 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a public water district or other publicly owned treatment works are state fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district, public water district or other publicly owned treatment works as reimbursement of billing and collection expenses.

2. The commission may grant a variance pursuant to section 644.061 to reduce fees collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce the discharge of water contaminants substantially below the levels required by commission rules.

3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on the date of application and on each anniversary date of permit issuance thereafter until the permit is terminated.

4. There shall be convened a joint committee appointed by the president pro tem of the senate and the speaker of the house of representatives to consider proposals for restructuring the fees imposed in sections 644.052 and 644.053. The committee shall review storm water programs, the state's implementation of the federal clean water program, storm water, and related state clean water responsibilities, and evaluate the costs to the state for maintaining the programs. The committee shall prepare and submit a report, including recommendations on funding the state clean water program, and storm water programs, to the governor, the house of representatives, and the senate no later than December 31, 2008.]

644.551. ADDITIONAL BONDS, PRINCIPAL AND INTEREST, HOW AND WHEN PAID — REPURCHASE WHEN. — All bonds herein authorized to be issued shall be paid at maturity and all interest accruing thereon shall be paid when it falls due by the state treasurer, at a place designated in the bonds and coupons attached. Thirty days before any of the bonds mature and any of the interest thereon falls due, it shall be the duty of the board of fund commissioners to draw its requisition for the amount necessary to pay such interest on the bonds and the principal of maturing bonds and the necessary expenses to be incurred in transmitting such moneys. Whereupon the commissioner of administration shall certify the amount [to the state auditor, and the state auditor shall issue his warrant upon] **and transmit the warrant to the state treasurer for payment from the state treasury** therefor in favor of the president of the board of fund commissioners, payable out of the water pollution control bond and interest fund; and the warrant so drawn shall be delivered to the state treasurer who shall transmit the amount of money therein specified to the paying agent named in the bonds with instructions to place such money to the credit of the board of fund commissioners for the payment of interest or principal of such bonds. Whenever in the opinion of the board of fund commissioners it is advisable to do so, and there are sufficient funds therefor, the board may redeem any of the bonds before maturity if the holders thereof agree thereto, and may also purchase any of the bonds in the open market whenever funds are available and in the opinion of the board it is to the advantage of the state to do so; but, in the event any of the bonds are redeemed before maturity, the purchase price shall not exceed the face value of said bonds plus accrued interest not previously paid.

[8.190. STATE AUDITOR'S DUTIES. — The state auditor shall allow the director on settlement for moneys legally paid out by virtue of this chapter.]

[21.811. REVIEW OF LOCAL PROPERTY TAX ASSESSMENT PRACTICES — RECOMMENDATIONS TO GENERAL ASSEMBLY, WHEN — REPORT TO STATE TAX COMMISSION. — 1. The joint committee on tax policy, as established in section 21.810, shall review and analyze the local property tax assessment practices of this state. The committee shall make recommendations to the general assembly regarding its findings with regard to the state's assessment practices. The committee shall submit a preliminary report to the general assembly by January 1, 2006, and a final report by June 30, 2006.

2. The committee shall report to the state tax commission any concerns it finds regarding the state's assessment practices as outlined under chapter 137, RSMo. The state tax commission shall ensure that all counties are accurately assessed, as provided by statute.]

[21.840. JOINT COMMITTEE ESTABLISHED, MEMBERS, APPOINTMENT, TERMS, DUTIES, MEETINGS — REPORT REQUIRED — EXPIRATION DATE. — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Preneed Funeral Contracts" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a comprehensive study and analysis of the consumer and economic impact on the preneed funeral contract industry in the state of Missouri;

(2) Determine from its study and analysis the need for changes in statutory law; and

(3) Make any other recommendation to the general assembly relating to its findings.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives.

4. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than January 31, 2009, and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on January 31, 2009.]

[28.085. MICROFILMING SERVICE CENTER AUTHORIZED. — The secretary of state is hereby authorized to establish and operate a microfilm service center for local agencies participating in the local records management program. For this purpose, the secretary of state may:

(1) Establish a charging system to be used when performing work for an agency;

(2) Establish a revolving fund to recover only those direct costs for materials, personnel and equipment associated with providing service to local agencies from the microfilm service center.]

[30.220. BLANK FORMS FOR CLERKS OF COURTS AND COUNTY OFFICERS. — It shall be the duty of the state treasurer, in all cases when he may deem it necessary so to do, to make out blank forms for such returns and reports as are required by law to be made to his office by clerks

of courts and other county officers, and transmit the same to such officers, and when necessary, shall accompany the same with directions; and such officer shall make his returns and reports in conformity to such forms and directions.]

[31.010. CERTAIN FUNDS CREATED — CERTAIN FUNDS ABOLISHED. — 1. There are hereby established and created in the treasury department of this state the following named funds: "Missouri Veterans Home", "Missouri State Chest Hospital", "Truman State University", "Northwest Missouri State University", "Central Missouri State University", "Southeast Missouri State University", "Southwest Missouri State University", and "Lincoln University".

2. Upon transfer of funds from the Missouri state chest hospital fund to the board of curators of the University of Missouri pursuant to section 172.860, RSMo, the Missouri state chest hospital fund shall be abolished.]

[33.285. BUDGET STABILIZATION FUND CREATED — FUNDING APPROPRIATIONS, WHEN — TRANSFER, WHEN — POWERS OF GOVERNOR AND GENERAL ASSEMBLY. — 1. The "Budget Stabilization Fund" is hereby created in the state treasury for use in meeting the program funding requirements of the state.

2. In any budget submitted to the general assembly, the governor may recommend an appropriation to the budget stabilization fund, which appropriation shall be subject to the provisions of subsection 4 of this section.

3. Moneys in the budget stabilization fund which are not appropriated to the governor to meet program funding requirements of the state in any year shall be invested by the state treasurer in the same manner as other surplus funds are invested. Interest earned on such investments shall be credited to the budget stabilization fund, subject to the provisions of subsection 4 of this section.

4. In the event that any amount to be transferred or credited to the budget stabilization fund in any year pursuant to subsection 2 or 3 of this section would cause the balance in the fund to exceed five percent of the receipts into the general revenue fund for the preceding fiscal year, then to the extent of such excess:

(1) An appropriation otherwise required to be recommended pursuant to subsection 2 of this section shall be reduced; and

(2) Interest earnings shall be credited to the general revenue fund.

5. If at the close of any fiscal year the balance in the budget stabilization fund shall exceed five percent of the receipts into the general revenue fund for the same period, such excess shall be transferred to the general revenue fund on or before the tenth day of the succeeding fiscal year.

6. The general assembly may annually appropriate to the governor amounts from the budget stabilization fund to be used as a reserve to meet budget shortfalls. In any fiscal year in which the governor reduces the expenditures of the state or any of its agencies below their appropriations in accordance with section 27 of article IV of the Missouri Constitution, and only during that period of time in which the general assembly is in regular or extraordinary session, the governor may authorize the commissioner of administration to transfer funds appropriated to the governor from the budget stabilization fund to fulfill the expenditures authorized by any of the existing appropriations which were affected by the governor's decision to reduce expenditures pursuant to section 27 of article IV of the Missouri Constitution. Prior to making any authorization for the transfer of funds appropriated from the budget stabilization fund, the governor shall notify the general assembly of his intent to make such authorization; and, if not disapproved by concurrent resolution within thirty days of the receipt of such notice by the general assembly, such authorization shall be valid. No amount shall be expended from funds appropriated to the governor from the budget stabilization fund unless pursuant to an authorization by the governor as specified in this subsection.

7. Except as provided in subsection 4 of this section, any amount appropriated to the governor from the budget stabilization fund and not expended at the end of any fiscal year shall revert to the fund and balances remaining in the budget stabilization fund at the close of any fiscal year shall not be subject to the provisions of section 33.080.

8. The general assembly shall not appropriate moneys from the budget stabilization fund without authorization from the governor.]

[33.571. ABOLISHMENT OF CERTAIN FUNDS, BALANCES TRANSFERRED TO GENERAL REVENUE — DISBURSEMENTS — DEPOSITS — DUTIES — EXEMPTIONS. — 1. The attorney general's court costs fund established by section 27.080, RSMo; the microfilming service revolving fund established by section 28.085, RSMo; the central check mailing service revolving fund established by section 30.245, RSMo; the revenue sharing trust fund established by section 30.900, RSMo; the Missouri veterans home fund and the Missouri state rehabilitation center fund established by section 31.010, RSMo; the state institutions gift trust fund established by section 33.563; the Missouri state surplus property clearing fund established by section 37.090, RSMo; the tort defense fund established by section 105.710, RSMo; the grade crossing fund established by section 152.032, RSMo; the handicapped children's trust fund established by section 162.790, RSMo; the state guaranty student loan fund established by section 173.120, RSMo; the special fund for the vocational rehabilitation of persons established by section 178.630, RSMo; the library service fund established by section 181.025, RSMo; the medical services fund established by section 192.255, RSMo; the crippled children's service fund established by section 201.090, RSMo; the Missouri clean water fund established by section 644.051, RSMo; the housing development fund established by section 215.050, RSMo; the national historic preservation fund established by section 253.022, RSMo; the state park board building fund established by section 253.230, RSMo; the Missouri federal water projects recreation fund established by section 640.510, RSMo; the marketing development fund established by section 261.035, RSMo; the state fair fees fund established by section 262.260, RSMo; the state fair trust fund established by section 262.262, RSMo; the abandoned fund account established by section 362.395, RSMo; the public service commission fund established by section 386.370, RSMo; the escheats fund established by section 470.020, RSMo; the professional liability review board fund established by section 538.055, RSMo; and the highway patrol academy fund established by section 590.145, RSMo, are abolished. All balances in any of those funds on September 28, 1983, may be, as deemed necessary by the state treasurer and commissioner of administration, transferred to the general revenue fund. Prior to such date, any of the funds listed in this section which may be determined to be required for the continued custody or receipt of money or property under the terms of any testamentary instrument or indenture of trust, or from which repayment of any bonded indebtedness is to be made, shall be certified by the commissioner of administration to the state treasurer and upon such certification, shall be exempted from the provisions of this section. He shall notify the revisor of statutes if such changes are made so that appropriate notations may be made in the revised statutes.

2. The state treasurer and the commissioner of administration shall establish appropriate accounts within the state treasury and in accordance with the state's accounting methods, and those accounts shall be the successors to the enumerated funds. Any receipt required to be deposited in the treasury to the credit of a particular fund which is abolished shall be deposited in the general revenue fund instead and shall be credited to the successor account. Any disbursement required to be made from a particular fund which is abolished shall be made from the general revenue fund and shall be charged to the successor account, but no disbursement from the general revenue fund shall be approved whenever such disbursement exceeds the balance available in the designated successor account. When enacting appropriations, the general assembly may establish such accounts within the general revenue fund as it deems necessary and appropriate to control expenditures, and any appropriation authorizing an

expenditure from the general revenue fund shall specify the appropriate account within the general revenue fund.

3. The state treasurer, the director of revenue, the commissioner of administration and others are specifically empowered to make necessary changes and adjustments so as to properly reflect state receipts and disbursements which may be received or expended for particular purposes, but it is the intent of the general assembly by this enactment to transfer moneys affected thereby to the general revenue fund for handling and investment. The revisor of statutes shall prepare necessary bills to change the revised statutes so as to reflect this intent.]

[33.577. CASH OPERATING RESERVE FUND, CREATED — MONEYS DEPOSITED IN FUND — TRANSFERS FROM AND TO FUND WITHOUT LEGISLATIVE ACTION, WHEN — INVESTMENT. — There is hereby established within the state treasury a fund to be known as the "Cash Operating Reserve Fund". The following moneys shall be transferred to or credited to the cash operating reserve fund:

(1) An amount equivalent to the nonrecurring general revenues collected by the provisions of section 144.081, RSMo, acceleration in general revenue fund sales tax receipts, and section 144.087, RSMo, deposit of cash bonds, or thirty-four million dollars, whichever is less. The amount provided by this section will be deposited in the cash operating reserve fund prior to June 30, 1985; and

(2) Such amounts as may be appropriated by the general assembly or otherwise credited to the cash operating reserve fund. The commissioner of administration may, throughout any fiscal year, transfer amounts from the cash operating reserve fund to the general revenue fund without other legislative action if he determines that such transfers are necessary for the cash requirements of the state. The commissioner shall transfer from the general revenue fund to the reserve an amount equal to the amount transferred from the reserve to the general revenue fund, but in any case the transfer must be made prior to May first of the fiscal year. No transfer out of the cash reserve may be made during May or June of any fiscal year. The balance in the reserve on May first of each fiscal year shall not be less than the sum of the opening balance of the reserve for that fiscal year plus accrued interest earned. Funds in the reserve which are not needed for current cash requirements of the state shall be invested by the treasurer in the same manner as other surplus funds are invested.]

[34.065. REQUESTS FOR BIDS MADE IN ROTATION, WHEN. — Where, because of the large number of possible bidders for a particular purchase, it is impractical to submit a request for a bid to all possible bidders each time a bid is requested, request shall be made in rotation pursuant to the regulation of the commissioner of administration so as ultimately to include all the possible bidders, except that recognized competitive bidders shall be solicited in each instance.]

[34.130. STATE DEPARTMENTS TO ESTIMATE AND SUBMIT LIST OF ANNUAL NEEDS. — On or before May first of each year, each department shall submit to the commissioner of administration a classified list of its estimated needs for supplies for the following fiscal year. The commissioner of administration shall consolidate these and may purchase the entire amount or such part thereof at one time as he shall deem best. Any contract for such purchases may provide only the price at which the supplies needed during the year shall be purchased and that the supplies shall be delivered in such amounts and at such times as ordered throughout the year and be paid for at such time and for such amounts as delivered. In such case, certification from the commissioner of administration and the auditor shall be required only for the amount ordered at any time.]

[57.130. PENALTIES AND FORFEITURES, COLLECTION OF — EXPIRATION DATE. — 1. The sheriffs of the several counties shall collect and account for all the fines, penalties, forfeitures and other sums of money, by whatever name designated, accruing to the state or any

county by virtue of any order, judgment or decree of a court of record, provided that by court rule provision may be made for a court clerk to collect fines, penalties, forfeitures and other sums of money accruing to the state by virtue of any order, judgment or decree of the court.

2. The provisions of this section shall expire and be of no force and effect on and after July 1, 2007.]

[60.461. PROPERTY DESCRIPTIONS NOT TO BE RECORDED UNLESS CONTAINING A POINT WITHIN ONE KILOMETER OF HORIZONTAL CONTROL STATION. — No coordinates based on either Missouri coordinate system purporting to define the position of a point on a land boundary shall be presented to be recorded in any public land records or deed records unless the point is within one kilometer of a horizontal control station established in conformity with the standards prescribed in section 60.451; except that, such one kilometer limitation may be modified by the department of natural resources to meet local conditions.]

[71.240. STREETS AND PUBLIC LANDS, HOW VACATED — PETITION — NOTICE. — Whenever any person or corporation interested in any town or city in this state may desire to vacate any lot, street, alley, common, public square or part thereof, in such town or city, such person or corporation may petition the county commission for the proper county, giving a distinct description of the property to be vacated, and the names of the persons to be affected thereby; which petition shall be filed with the clerk of said commission thirty days previous to the sitting thereof, and notice of the pendency of said petition shall be given for the same space of time, either in a public newspaper printed in said town, or by written notices thereof and set up in three of the most public places in said town or city.]

[71.730. INSPECTION OF ANIMALS INTENDED FOR FOOD. — All cities in this state are hereby empowered to provide by ordinance for the inspection, while living, of all animals intended as human food, within such cities.]

[71.750. REGULATION OF CLOSING HOURS, BARBER AND BEAUTY SHOPS. — The legislative bodies of all incorporated cities, towns and villages are hereby empowered to pass, alter, amend and repeal ordinances to regulate the hours of closing of barber shops and beauty shops.]

[71.970. CABLE TELEVISION FACILITIES, MUNICIPALITIES MAY OWN AND OPERATE, REQUIREMENTS — PUBLIC SERVICE COMMISSION TO STUDY ECONOMIC IMPACT — EXPIRATION DATE. — 1. Municipalities may own and operate cable television facilities on a nondiscriminatory, competitively neutral basis, and at a price which covers costs, including imputed costs that the political subdivision would incur if it were a for-profit business. No municipality may own or operate cable television facilities and services unless approved by a vote of the people. This section shall apply only to municipalities that acquire or construct cable television facilities and services after August 28, 2002.

2. The public service commission shall annually study the economic impact of the provisions of this section and prepare and submit a report to the general assembly by December thirty-first of each year.

3. The provisions of this section shall terminate on August 28, 2007.]

[94.030. COUNCIL TO MAKE ANNUAL LEVY. — The city council shall, within a reasonable time after the assessor's books of each year are returned, ascertain the amount of money to be raised thereon for general and other purposes, and fix the annual rate of levy therefor by ordinance.]

[94.210. BOARD TO FIX RATE OF LEVY. — The board of aldermen shall, within a reasonable time after the assessor's books of each year are returned, ascertain the amount of money to be raised thereon for general and other purposes, and fix the annual rate of levy therefor by ordinance.]

[95.365. MONEY DRAWN FROM TREASURY, HOW — TREASURER TO REPORT, WHEN. — No money shall be paid out of the treasury except on a warrant signed by the mayor and attested by the city clerk. No warrant shall be drawn upon the treasurer, nor shall any ordinance appropriating money be passed, unless there is an unexpended balance to the credit of the city in the fund in the treasury upon which such warrant is drawn, to meet such warrant, or a sufficient sum of unappropriated money in the fund in the treasury upon which such ordinance is drawn, to meet such ordinance. Every bill that contemplates the payment of money shall, upon its second reading, be referred to the treasurer, or the person acting as treasurer, for his endorsement, to the effect that a sufficient sum stands to the credit of the city, unappropriated, in the fund covered by such ordinance, to meet the requirements of such bill. The treasurer shall report to the board of aldermen, on or before the first day of July in each year, the amount of receipts and expenditures of the treasury, the amount of money on hand, and the amount of bonds falling due, if any, for the redemption of which provision must be made; also, the amount of interest to be paid during the next fiscal year. He shall also perform such other duties in the line of his office as may be required of him by ordinance. The report of the treasurer may be published if deemed necessary by the board of aldermen.]

[96.300. HOMES FOR ORPHAN CHILDREN AND CHILDREN OF INDIGENT PARENTS. — The mayor and board of aldermen of cities of the third class in this state may acquire property for homes for orphan children and the children of indigent parents, by gift, and may improve and maintain the same as such public institutions.]

[96.310. CHILDREN'S HOME FUND — WHEN TAXES MAY BE LEVIED — ELECTION — TAX MAY BE ENDED OR REDUCED, WHEN, HOW. — 1. When one hundred voters of any city of the third class shall petition the mayor and legislative branch of the municipal government, asking that an annual tax be levied for the maintenance of a home for orphan children and the children of indigent parents, and shall specify in the petition a rate of taxes not to exceed one mill on the dollar annually on all property in the city, such mayor by direction of the legislative branch of the municipal government shall submit the question to the voters.

2. The question shall be submitted in substantially the following form:

Shall there be a tax for a children's home?

3. The tax specified shall be levied and collected and shall be known as the "children's home funds".

4. If a majority of voters in the city, voting on the question, vote to terminate the tax, the tax shall terminate.

5. In case of an increase in valuation in any year of the taxable property within such incorporated city, the council of such city may reduce the levy herein provided for by levying a tax for the maintenance of said orphans' home which in the judgment of said common council shall be sufficient for the maintenance of the orphans' home throughout the year, but in no case shall the tax so levied for any one year by the common council exceed ten percent more than the tax of the previous year.]

[96.320. DIRECTORS. — When any incorporated city of the third class shall have received, by gift or otherwise, a home for the care of orphan children or the children of indigent parents, which shall be known as "the children's home", the mayor of such city shall, with the approval of the legislative branch of the municipal government of such city, proceed to appoint a board

of nine directors for the same, chosen from the residents at large, with reference to their fitness to such office; and no member of the municipal government shall be a member of said board.]

[96.330. TERMS OF OFFICE. — Said directors shall hold office, one-third one year, one-third two years and one-third for three years, from the first of June following the appointment and at their first regular meeting shall cast lots for their respective terms; and annually thereafter, the mayor shall, before the first of June, of each year, appoint as before, three directors, who shall hold office for three years and until their successors are appointed and qualified. The mayor may, by and with the consent of the legislative department, remove any director for misconduct or neglect of duty.]

[96.340. ORGANIZATION — POWERS OF DIRECTORS — FUNDS. — Said directors shall, immediately after appointment, meet and organize by the election of one of their number president, and by the election of such other officers as they may deem necessary. They shall make and adopt such bylaws, rules and regulations for their own guidance and for the management and control of the children's home as may be expedient and not inconsistent with sections 96.300 to 96.380 and to that end may employ such persons as may be necessary for said purpose. They shall have exclusive control of all moneys collected to the credit of the children's home fund and all of the supervision, care and custody of said home; provided, that all moneys received for such home shall be deposited in the treasury of said city to the credit of the children's home fund and shall be kept separate and apart from other moneys of such city and drawn upon by the proper officers of said city upon the properly authenticated vouchers of the children's home board; said board shall have power to appoint a suitable person to take charge of the management and control of said home, and all necessary assistants for such person and fix their compensation and shall have power to remove such appointees and shall in general carry out the spirit and intent of sections 96.300 to 96.380, in establishing and maintaining a home for orphan children and the children of indigent parents.]

[96.350. ADMISSION. — The board of directors shall have power to make all necessary rules and regulations for the admission of children to said home, but no child shall be admitted thereto who has not been a bona fide resident of said city for a period of not less than three months next immediately preceding his admission to said home, and in the admission of children, preference shall be given to those whose parents are both dead or who have abandoned them; provided, that no religious or sectarian requirement shall ever be made for such admission.]

[96.360. CHARGES. — The board of directors shall have power to fix and maintain such charges as they deem proper for the admission and retention of children in said home, to the end that parents who are able to contribute to the support of their children may be required to do so, according to their ability.]

[96.370. ANNUAL REPORT, CONTENTS. — The said board of directors shall make, on or before the second Monday in June, an annual report to the city council, stating the condition of said home on the first day of May of that year, the various sums of money received from the children's home fund and from other sources, and how such moneys have been expended and for what purposes, with such other statistics, information and suggestions as they may deem of general interest. All such portions of said report as relate to the receipt and expenditure of money shall be verified by affidavit.]

[96.380. DONATIONS. — Any person desiring to make donations of money, personal property or real estate, for the benefit of such orphan children or the children of indigent parents, of such city, shall have a right to vest the title to the money or real estate so donated in the board

of directors created under sections 96.300 to 96.380, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise or bequest of such property; and as to such property, the said board shall be held and considered to be special trustees.]

[99.799. JOINT COMMITTEE ON TAX POLICY TO CONDUCT STUDY. — 1. The joint committee on tax policy shall conduct a study of the feasibility of creating a program to allow municipalities within the state to engage in tax increment finance-like projects with optional tax abatement in any area of such municipality regardless of the existence of blight. The committee shall report its findings to the general assembly no later than December 31, 2007.

2. The provisions of this section shall expire on January 1, 2008.]

[105.140. STATE AUDITOR MAY REQUIRE OFFICERS TO FURNISH STATISTICS, PENALTY FOR FAILURE. — It shall be the duty of the town, city and county officers in this state, when called upon by the state auditor to do so, to report, on blanks furnished by the state auditor, statistical information concerning dramshops, wine and beer saloons, costs in criminal cases, salaries paid county officers, costs of assessing and collecting the revenue, the debts of counties and cities, and such other information as will be of general interest when published. The state auditor shall prepare and cause to be printed proper blanks for carrying the provisions of this section into effect, and shall supply the proper officers with such blanks once in each year; and the officer required to fill up said blanks shall do so within thirty days, and forward the same to the state auditor, who shall tabulate the information, and publish such part of the same in his biennial report to the general assembly as he may deem of importance. Any person failing or refusing to comply with the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than twenty dollars nor more than one hundred dollars.]

[105.983. STUDY AND REPORT ON POLITICAL TELEPHONE SOLICITATIONS. — The ethics commission shall study methods to improve the regulation of persons and organizations that conduct or utilize political telephone solicitations. The commission shall issue a report containing recommendations to the general assembly no later than January 1, 2007.]

[135.431. COMMUNITY DEVELOPMENT CORPORATION FORMATION — PURPOSE — DUTIES AND POWERS — FUNDING. — 1. The department of economic development shall identify active community development corporations operating within the state and assist them in the formation of a Missouri community development corporation association. The department shall assist the community development corporation association in an amount up to ten percent of its total appropriation for community development corporations to cover the cost associated with the activities of the association. The association shall serve as a clearinghouse for information for community development corporations. The association shall help staff members of community development corporations develop administrative skills in such areas as entrepreneurial development, grant writing, real estate analysis, financial deals structuring, negotiations, human resource development, strategic planning and community needs assessment. The association shall sponsor conferences which allow community development corporations to learn about community development activities statewide and at the federal level.

2. The Missouri community development corporation association shall be funded by dues assessed against participating community development corporations. The association shall adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted; elect officers; make expenditures which are incidental and necessary to carry out its purposes and powers; and do all things necessary to ensure full participation by Missouri community development corporations in any federal program relating to community development needs.]

[135.433. INITIATIVE, PUBLIC-PRIVATE PARTNERSHIP FOR COMMUNITY DEVELOPMENT CORPORATIONS — PURPOSE — FUNDING. — 1. The department of economic development shall establish a public-private partnership to be known as the "Missouri Community Development Corporation Initiative". The initiative shall be supported by appropriations made to the department for that purpose and from federal funds and private corporations. All moneys for the operation of the initiative shall be deposited into the community development fund as established by section 135.401.

2. The initiative shall support the organizational development of community development corporations. Its purpose is to help these corporations initiate and develop strategies which generate beneficial self-sustaining economic and human development activities in minority and underdeveloped communities. It shall use public and private dollars to identify community development corporations appropriate for assistance, to administer a grants process, to offer bridge financing, and to lend technical assistance in numerous areas including the construction of affordable housing and the development of commercial real estate. Funding from the initiative to community development corporations may be in the following forms:

- (1) Operational grants;
- (2) Special opportunity grants;
- (3) Gap financing for single and multifamily housing, office space, industrial space, plants and equipment, child care facilities, and small business incubators or entrepreneurial development;
- (4) Bridge loans for emergency needs;
- (5) Initial programs for emerging community development corporations to complete their first projects;
- (6) Certificate of deposit loan leveraging programs to leverage loans made to community development corporations by financial institutions for land acquisition and construction; and
- (7) Other financing programs which the initiative deems to be appropriate.]

[137.118. LIVESTOCK AND FARM MACHINERY, ADJUSTMENT OF TAX RATE CEILING WITHOUT VOTER APPROVAL, WHEN. — Notwithstanding any other provision of law to the contrary, to replace any lost revenues due to the change in the percentages of the true value in money used in determining the assessed valuation of livestock and farm machinery, any taxing authority may adjust its 1989 tax rate ceiling without voter approval to the extent necessary to generate the same property tax revenue as was produced in the previous year from property taxes on livestock and farm machinery subject to taxation by such taxing authority.]

[137.286. AD VALOREM PROPERTY TAX LEVY APPROVED IN APRIL OR JUNE OF 1985, VALUATION, HOW DETERMINED. — Notwithstanding any other law to the contrary, taxing districts or political subdivisions which first levied an ad valorem property tax pursuant to an election held in April, 1985, or in June, 1985, shall base tax levies on the property valuations established in 1985 and shall not roll back rates based on a tax rate ceiling calculated on 1984 property valuations.]

[142.821. INDIAN RESERVATION EXEMPTION, HOW ADMINISTERED. — The exemption for motor fuel sold within an Indian reservation or Indian country under section 142.815 shall be administered as follows:

- (1) At the discretion of the director the exemption from taxation set forth in this section shall be administered as set out in either paragraph (a) or (b) of this subdivision. In the event a court of competent jurisdiction should strike down, enjoin, or issue any form of temporary restraining order against either paragraph (a) or (b) of this subdivision, then the remaining paragraph shall immediately become effective and shall be administered by the director. The two alternative methods are as follows:

(a) The tribal member shall apply for a refund with respect to the motor fuel purchased in this state for consumption within Indian country in this state as to which the tax imposed by this chapter has previously been paid and no refund previously issued; or

(b) The director shall determine, by the procedure set out herein, the annual probable demand for motor fuel for consumption by tribal members within Indian country for each ultimate vendor location owned and operated by a federally recognized Indian tribe on Indian country. Tribally owned and operated ultimate vendors shall be permitted a monthly allocation equal to one-twelfth the annual probable demand. No motor fuel shall be removed from a terminal or imported into this state tax free for sale at a tribally owned and operated location except pursuant to this section. The director shall issue exemption certificate coupons equal to the probable demand to each federally recognized tribe which owns and operates an ultimate vendor location in Indian country. The tribally owned and operated ultimate vendor shall transmit the coupons to its distributor who shall grant the ultimate vendor a credit in the amount of the tax exemption equal to the amount which would be due pursuant to section 142.803 absent the coupons. The distributor shall transmit said used coupons up its chain of distribution to the supplier charged with precollection of tax in accordance with this chapter who has granted the same tax exemption to the distributor. The supplier shall then claim the coupons as a credit against the tax liability otherwise owing on motor fuel removed from its terminals;

(2) The probable demand used in the method described in paragraph (b) of subdivision (1) of this section shall be determined in the first instance by the director by multiplying the number of members of the tribe which owns and operates an ultimate vendor location in Indian country who live within the service area of that location by the average per capita motor fuel consumption for residents of this state by a ratio whose numerator is the amount of motor fuel consumed in nonhighway uses (not on state maintained highways) and whose denominator is the amount of that motor fuel consumed in this state;

(3) In determining the number of members of the tribe living within the service area, the director may rely upon information including, but not limited to:

- (a) Verified information voluntarily submitted by the affected tribe;
- (b) Data derived from the most recent U.S. decennial census; and
- (c) Data derived from the U.S. Bureau of Indian Affairs;

(4) The service area of a tribally owned and operated ultimate vendor location shall be presumed to be a radius around the location with a diameter of:

- (a) Ten miles in counties whose population exceeds three hundred fifty thousand; and
- (b) Twenty-five miles in counties whose population does not exceed three hundred fifty thousand. An affected tribe may rebut this presumption by competent evidence in a proceeding to adjust the probable demand determination pursuant to subdivision (7) of this subsection;

(5) In determining the per capita consumption of motor fuel and the ratio of nonhighway use of fuel to that consumed the director may rely upon information including, but not limited to:

(a) Filings with the director regarding total fuels removed from terminals versus the amount used upon highways in this state;

- (b) Fuel consumption reports issued by the Federal Highway Administration; and
- (c) Energy consumption reports issued by the U.S. Energy Information Service;

(6) The director may adjust his determination of probable demand periodically at his discretion, but not less often than upon receipt of a new federal decennial census;

(7) Should any affected federally recognized Indian tribe wish to contest the director's determination of probable demand, it may do so before the administrative hearing commission. At such hearing the tribe shall have the right to submit witnesses and evidence and shall have the burden of proof by a preponderance of the evidence to establish error in the director's determination and by establishing the tribe's own calculation. At the conclusion of such hearing, the administrative law judge shall prepare findings of fact, conclusions of law and an order which shall be subject to any and all rights of appeal enjoyed by the director or any other taxpayers. In

such a hearing the affected tribe may introduce testimony under oath or other competent evidence to establish:

(a) The number of its tribal members living within the service area of a tribally owned and operated ultimate vendor location;

(b) The actual radius of the service area of the location, if different from those distances presumed in subdivision (4) of this section;

(c) Per capita motor fuel consumption of tribal members living within the service area if different from that calculated by the director in accordance with subdivision (5) of this section; or

(d) The ratio of nonhighway to highway use fuels within the service area if different from that calculated by the director under subdivision (5) of this section;

(8) Should the director determine that an affected tribe or its suppliers have been violating or evading its determination of probable demand hereunder or securing or selling untaxed motor fuel to consumers other than members of the affected tribe, the director may, after notice and hearing, cancel the tax exemption coupons granted to the tribe and prohibit removal of tax-free motor fuel from a terminal or import into this state for delivery to the tribally owned and operated ultimate vendor locations. Upon such action, the tribal members must use the method provided in subdivision (1) of this section to obtain refunds, no further coupons shall be provided to the affected tribe, and the suppliers shall not be permitted to claim a credit upon receipt of the coupons.]

[152.032. GRADE CROSSING FUND ESTABLISHED, HOW FUNDED, HOW SPENT. — 1. Fifty percent of all taxes collected by the director of revenue under the provisions of this chapter shall be deposited in the state treasury to the credit of a fund to be known as the "Grade Crossing Fund", which is hereby created and established for the purpose of providing revenues to protect the public against hazards existing at the crossings of public roads, streets, and highways with railroad tracks. Whenever the motor carrier and railroad safety division of the department of economic development, pursuant to section 389.640, RSMo, orders the installation, construction or reconstruction of automatic signals or other safety devices or other safety improvements at crossings at grade of railroads and public roads, highways or streets, the cost thereof, which the division apportions against the state, county, municipality or other public authority in interest, shall be paid out of the grade crossing fund; provided, however, that when any part of such cost can be paid from funds available under any federal or federal aid highway act such part shall not be paid from the grade crossing fund; and provided, further, that no more than ninety percent of the cost of protecting any grade crossing shall be paid out of the grade crossing fund. The motor carrier and railroad safety division of the department of economic development shall, in cooperation with other governmental agencies of the state, determine if any such cost can be paid from funds available under any federal or federal aid highway act. An order of the motor carrier and railroad safety division of the department of economic development for the payment of any such cost from the grade crossing fund shall be authority for the state treasurer to pay out of that fund to the person, firm, or corporation entitled thereto under the division's order the amount so determined to be paid from said fund. However, such payments annually shall not exceed in any one county an amount equal to the distribution as set forth in section 152.050, unless the motor carrier and railroad safety division of the department of economic development makes a specific finding of facts and conclusions of law that a situation highly dangerous to the public does exist.

2. The unexpended balance in the grade crossing fund at the end of each fiscal year shall not revert to the general revenue fund as provided in section 33.080, RSMo, but shall accumulate from year to year.]

[165.016. AMOUNT TO BE SPENT ON TUITION, RETIREMENT AND COMPENSATION — BASE SCHOOL YEAR CERTIFICATED SALARY PERCENTAGE — EXEMPTION AND REVISION — PENALTY — EXCEPTIONS — TERMINATION DATE. — 1. A school district shall expend as a

percentage of current operating cost, for tuition, teacher retirement and compensation of certificated staff, a percentage that is for the 1994-95 and 1995-96 school years no less than three percentage points less than the base school year certificated salary percentage and for the 1996-97 school year, no less than two percentage points less than the base school year certificated salary percentage. A school district may exclude transportation and school safety and security expenditures from the current operating cost calculation of the base year and the year or years for which the compliance percentage is calculated. The base school year certificated salary percentage shall be the two-year average percentage of the 1991-92 and 1992-93 school years except as otherwise established by the state board under subsection 4 of this section; except that, for any school district experiencing, over a period of three consecutive years, an average yearly increase in average daily attendance of at least three percent, the base school year certificated salary percentage may be the two-year average percentage of the last two years of such period of three consecutive years, at the discretion of the school district.

2. Beginning with the 1997-98 school year, a school district shall:

(1) Expend, as a percentage of current operating cost, as determined in subsection 1 of this section, for tuition, teacher retirement and compensation of certificated staff, a percentage that is no less than two percentage points less than the base school year certificated salary percentage; or

(2) For any year in which no payment of a penalty is required for the district under subsection 6 of this section, have an unrestricted fund balance in the combined incidental and teachers' funds on June thirtieth which is equal to or less than ten percent of the combined expenditures for the year from those funds.

3. Beginning with the 1999-00 school year:

(1) As used in this subsection, "fiscal instructional ratio of efficiency" or "FIRE" means the quotient of the sum of the district's current operating costs, which for this section shall mean all expenditures for instruction and support services, excluding capital outlay and debt service expenditures less the revenue from federal categorical sources, food service, student activities, and payments from other districts, for all kindergarten through grade twelve direct instructional and direct pupil support service functions plus the costs of improvement of instruction and the cost of purchased services and supplies for operation of the facilities housing those programs, and excluding student activities, divided by the sum of the district's current operating cost, as defined in this subdivision, for kindergarten through grade twelve, plus all tuition revenue received from other districts minus all noncapital transportation and school safety and security costs;

(2) A school district shall show compliance with this section in school year 1998-99 and thereafter by the method described in subsections 1 and 2 of this section, or by maintaining or increasing its fiscal instructional ratio of efficiency compared to its FIRE for the 1997-98 base year.

4. (1) The state board of education may exempt a school district from the requirements of this section upon receiving a request for an exemption by a school district. The request shall show the reason or reasons for the noncompliance, and the exemption shall apply for only one school year. Requests for exemptions under this subdivision may be resubmitted in succeeding years.

(2) A school district may request of the state board a one-time, permanent revision of the base school year certificated salary percentage. The request shall show the reason or reasons for the revision.

5. Any school district requesting an exemption or revision under subsection 4 of this section must notify the certified staff of the district in writing of the district's intent. Prior to granting an exemption or revision, the state board shall consider comments from certified staff of the district. The state board decision shall be final.

6. Any school district which is determined by the department to be in violation of the requirements of subsection 1 or 2 of this section, or both, shall compensate the building-level

administrative staff and nonadministrative certificated staff during the year following the notice of violation by an additional amount which is equal to one hundred ten percent of the amount necessary to bring the district into compliance with this section for the year of violation. In any year in which a penalty is paid, the district shall pay the penalty specified in this subsection in addition to the amount required under this section for the current school year.

7. Any additional transfers from the teachers' or incidental fund to the capital projects fund beyond the transfers authorized by state law and state board policy in effect on January 1, 1996, shall be considered expenditures from the teachers' or incidental fund for the purpose of determining compliance with the provisions of subsections 1, 2 and 3 of this section.

8. The provisions of this section shall not apply to any district wherein the local effort is greater than its weighted average daily attendance multiplied by the state adequacy target multiplied by the dollar value modifier under section 163.031, RSMo.

9. The provisions of subsections 1 to 8 of this section shall not apply to any district that has unrestricted fund balances in the combined incidental and teacher funds on June thirtieth of the preceding year which are equal to or less than seventeen percent of the combined expenditure for the preceding year from these funds in any year in which state funds distributed pursuant to subsections 1 and 2 of section 163.031, RSMo, are no more than ninety-six percent of such state funds distributed in fiscal year 2002.

10. The provisions of subsections 1 to 8 of this section shall not apply to any district which meets the following criteria:

(1) With ten percent or more of its assessed valuation that is owned by one person or corporation as commercial or personal property who is delinquent in a property tax payment;

(2) With unrestricted fund balances in the combined incidental and teacher funds on June thirtieth of the preceding year which are equal to or less than one-half of the local property tax revenue for the previous year; and

(3) In any year in which state funds distributed pursuant to subsections 1 and 2 of section 163.031, RSMo, are no more than ninety-six percent of such state funds distributed in fiscal year 2002.

11. The provisions of this section shall terminate on June 30, 2007.]

[165.018. ONE-TIME TRANSFER FROM INCIDENTAL FUND TO CAPITAL PROJECTS FUND PERMITTED, AMOUNT, QUALIFICATIONS — TERMINATION DATE. — 1. Any school district shall be permitted to make a one-time additional transfer from the incidental fund to the capital projects fund in an amount not to exceed forty percent of that district's June 30, 2006, incidental fund if such school district meets one of the following qualifications:

(1) Has an average daily attendance between nine hundred forty and one thousand forty during the 2004-2005 school year, located at least partially in a county of the third classification with a township form of government and with more than twenty-nine thousand seven hundred but fewer than twenty-nine thousand eight hundred inhabitants and which entirely encompasses a city of the fourth classification with more than one thousand one hundred but fewer than one thousand two hundred inhabitants; or

(2) Has an average daily attendance between six hundred and six hundred thirty during the 2004-2005 school year, located at least partially in any county of the second classification with more than fifty-five thousand six hundred but fewer than fifty-five thousand seven hundred inhabitants; or

(3) Has an average daily attendance between four hundred sixty and four hundred ninety during the 2004-2005 school year, located at least partially in any county of the third classification without a township form of government and with more than twenty-three thousand two hundred fifty but fewer than twenty-three thousand three hundred fifty inhabitants; or

(4) Has an average daily attendance between one thousand four hundred and one thousand five hundred during the 2004-2005 school year and is located entirely within a county of the third

classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants.

2. The provisions of this section shall terminate on July 1, 2007.]

[170.250. VIDEO INSTRUCTIONAL DEVELOPMENT AND EDUCATIONAL OPPORTUNITY PROGRAM, ESTABLISHED, PURPOSE — FUNDESTABLISHED, USES — ADVISORY COMMITTEE, MEMBERS, EXPENSES — ADMINISTRATION OF PROGRAM GRANTS — HEALTH CARE PROVIDERS TO BE FURNISHED COURSES, WHEN — AVAILABILITY OF INSTRUCTIONAL PROGRAMS — LOCAL TELEPHONE COMPANY, TARIFF FILING, PROVISION OF SERVICE, RATES. — 1. The "Video Instructional Development and Educational Opportunity Program" is established to encourage all educational institutions in Missouri to supplement educational opportunities through telecommunications technology and satellite broadcast instruction. The program established by this section is to be administered by the state board of education. The program shall consist of:

(1) Grants to local school districts, state-supported institutions of higher education and public television stations as defined in section 37.205, RSMo, for equipment and instruction;

(2) Instructional programs developed pursuant to this section and transmitted through the airwaves, over telephone lines, or by cable television which are available for all residents of this state without charge as defined in this section; and

(3) Instructional programs developed pursuant to this section which are available to any subscriber according to this section.

2. The "Video Instructional Development and Educational Opportunity Fund" is established in the state treasury and shall be administered by the department of elementary and secondary education at the direction of the state board of education. Moneys deposited in the fund shall consist of revenues generated from state sales and use tax revenues as provided in chapter 144, RSMo, on the rental of films, records or any type of sound or picture transcriptions as provided in subsection 3 of this section and shall include four million dollars transferred to the fund annually. Moneys in the fund shall be used solely for purposes established by this section.

3. Within the department of elementary and secondary education, there is established an advisory committee which shall make recommendations to the state board of education on the grant program. The committee shall be composed of twenty-nine members. The members of the committee shall consist of one representative of public television stations as defined in section 37.205, RSMo, and one representative of the cable television industry appointed by the state board of education, one representative of public television stations as defined in section 37.205, RSMo, and one representative of the cable television industry appointed by the coordinating board for higher education, three classroom teachers from the elementary and secondary level appointed by the state board of education, three school administrators of elementary or secondary schools appointed by the state board of education, three members of school boards of local public school districts appointed by the state board of education, four representatives from public community college districts appointed by the coordinating board for higher education, four representatives of state-supported institutions of higher education other than community colleges appointed by the coordinating board for higher education, one representative of the regional consortium for education and technology appointed by the state board of education, one representative of the cooperating school districts of the St. Louis suburban area appointed by the state board of education, two representatives of the public appointed by the governor with the advice and consent of the senate, two members of the senate appointed by the senate president pro tem and two members of the house of representatives appointed by the speaker of the house of representatives. Of all members appointed by the state board of education, no more than four shall be from any one congressional district and of all the members appointed by the coordinating board for higher education, no more than four shall be from any one congressional district. The members of the committee shall serve three-year terms and shall not serve more than two terms consecutively. However, committee members having served two consecutive

terms may be reappointed after leaving the committee for at least one three-year term. On August 28, 1992, the committee shall designate nine of its members to serve a term of one year, ten of its members to serve a term of two years, and ten of its members to serve a term of three years. All subsequent appointments shall be for three years. All members shall receive no compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred while serving on the committee out of funds appropriated for that purpose. The committee shall meet at least quarterly and shall annually issue a report together with its recommendations to the state board of education and the general assembly.

4. The state board of education may cooperate with existing programs including the University of Missouri, other institutions of higher education, the cooperating school districts of the St. Louis suburban area, or its successor organization, the regional consortium for education and technology or its successor organization, and any statewide organization of public school governing boards and may delegate or contract for the performance or operation of the respective grant programs. The state board of education shall establish appropriate guidelines for participation by the aforementioned entities and by school districts, community college districts, and public television stations as defined in section 37.205, RSMo, in the grant program. Such guidelines shall include application procedures and shall establish policies for awarding grants in the event that more grant applications are received than are funds available to honor the applications in any fiscal year. In allocating funds to applicants, the state board of education may give due consideration to revenues available from all other sources. The state board of education shall accredit courses offered through this program at the elementary and secondary education level. The coordinating board for higher education shall approve courses taught at the postsecondary level.

5. In any fiscal year, moneys in the fund shall be used first to ensure that any and all school districts, community college districts and state institutions of higher education seeking aid under this program shall receive telecommunications equipment including computers and modems necessary to participate in the satellite learning process or instructional television video; second to provide the school districts, community college districts and state institutions of higher education with access to subjects at the advanced level or the remedial level or which are not taught in the schools of the district or the service area or campus, which subjects shall include courses in continuing education necessary for maintenance or renewal of licenses for all such licensed health care providers; and third to provide enrichment classes for all pupils of the district. However, the state board of education may set aside a portion of the funds to be used to contract with state-supported institutions of higher education and public television stations as defined in section 37.205, RSMo, to develop instructional programs for grades kindergarten through twelve and for undergraduate and graduate course work suitable for broadcast to the school districts, community college districts and state institutions of higher education as appropriate and to develop the capability to transmit programs cited in this section.

6. Participation by a local school district, a community college district or a state institution of higher education in the program established by this section shall be voluntary. No school district, community college district or state institution of higher education receiving funds under this program shall use those funds for any purpose other than that for which they were intended. Any school district, community college district or state institution of higher education shall be eligible to receive funds under this program regardless of its curriculum, local wealth or previous contractual arrangements to receive satellite broadcast instruction.

7. The office of administration on behalf of the state of Missouri may contract with institutions of higher education for the development or operation or both of state employee training programs transmitted by telecommunications technology.

8. Instructional programs developed pursuant to this section which are transmitted one way through the airwaves or by cable television shall be available to all residents of this state without charge or fee to the extent permitted by the Missouri Constitution. "Without charge or fee" shall not require the providing of equipment to transmit or receive telecommunications instruction or

the providing of commercial cable television service. If the instructional program involves two-way, interactive communication between the instructor and the participant, the district or institution operating the program may prescribe academic prerequisites and limit the number of persons who may enroll in the specific program and give preference to residents of the district or institutional attendance area who are age twenty-one or younger but shall not discriminate against any resident on any other basis. A fee may be charged which shall be paid directly by the individual participant, but the fee shall be equal for all participants. If a subscription fee is charged by the originator of the program, the district or institution may pay the subscription fee for all participants from the grant pursuant to this section or from any other public or private fund legally authorized to be used for this purpose. Printed materials designed to facilitate or complement telecommunications programs or electronic reproductions thereof may be made available for loan by the school district, community college or institution of higher education through the public library system subject to the normal rules and regulations of the lending system and in such quantities as may be approved by the governing body of the district or institution. Instructional programs which involve two-way, interactive communication between the instructor and the participant shall also be available to any not-for-profit organization in this state which is exempt from taxation pursuant to subdivision (19) of subsection 2 of section 144.030, RSMo, upon payment of a reasonable subscription fee as determined by the state board of education. Such fees shall be set on a per-participant, per-course basis. The district or institution or the state board of education may make telecommunication equipment available for purchase at cost by or rental to any not-for-profit organization in this state which is exempt from taxation pursuant to subdivision (19) of subsection 2 of section 144.030, RSMo.

9. (1) In order to facilitate or complement telecommunications, local exchange telecommunications companies shall file with the public service commission tariffs for provision of local service to public school districts, and may file tariffs for provision of local service to accredited primary or secondary schools owned or operated by private entities and community college districts located within the local exchange telecommunications companies certified area. Such local exchange telecommunications companies shall seek commission authorization to provide local service at rates lower than those charged for business and residential service in effect when the tariff is filed, provided that the proposed rates may not be below the actual cost of providing the service. Upon approval of the public service commission, the rates shall not be classified as discriminatory for the purposes of chapter 392, RSMo.

(2) The public service commission may approve the tariff as submitted, or may, after hearing, modify the tariff in the public interest. The commission may promulgate rules to aid in the implementation of this section.]

[172.860. MISSOURI REHABILITATION CENTER, CERTAIN FUNDS TO BE TRANSFERRED FROM DEPARTMENT OF REVENUE TO UNIVERSITY OF MISSOURI CURATORS—EXCEPTIONS. — Any funds remaining in the Missouri state chest hospital fund and any funds remaining in any other fund designated for the Missouri rehabilitation center in the treasury of this state on the effective date of the transfer of the Missouri rehabilitation center to the board of curators of the University of Missouri, except for that portion as may be retained by the department of health and senior services for the continued support of the tuberculosis laboratory, upon notice to the director of revenue that an agreement has been executed which transfers the Missouri rehabilitation center from the department of health and senior services to the board of curators of the University of Missouri, shall be transferred to the control and management of the curators of the University of Missouri, to be held and expended by the curators consistent with the provisions of section 172.850.]

[173.710. CONTINGENT EXPIRATION DATE. — Sections 173.700, 173.705, 173.708 and this section shall expire on January 1, 1996, if the midwestern higher education compact does not become effective prior to December 31, 1995.]

[173.715. REGIONAL EDUCATION COMPACT.] — The following compact, as amended, is approved and this state is declared to be a party thereto; and agreements, covenants and obligations therein are binding upon the state of Missouri.

THE REGIONAL COMPACT

1. Whereas, the said states desire to enter into a compact with each other providing for the planning and establishment of regional educational facilities;

2. Now, therefore, in consideration of the mutual agreements, covenants and obligations assumed by the respective states who are parties hereto (hereinafter referred as "states"), the said several states do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting states which, for the purpose of this compact, shall constitute an area for regional education supported by public funds derived from taxation by the constituent states and derived from other sources for the establishment, acquisition, operation and maintenance of regional educational schools and institutions for the benefit of citizens of the respective states residing within the region so established as may be determined from time to time in accordance with the terms and provisions of this compact.

(1) The states do further hereby establish and create a joint agency which shall be known as the board of control for southern regional education (hereinafter referred to as the "board"), the members of which board shall consist of the governor of each state, ex officio, and four additional citizens of each state to be appointed by the governor thereof, at least one of whom shall be selected from the field of education, and at least one of whom shall be a member of the legislature of that state. The governor shall continue as a member of the board during his tenure of office as governor of the state, but the members of the board appointed by the governor shall hold office for a period of four years except that in the original appointments, one board member so appointed by the governor shall be designated at the time of his appointment to serve an initial term of one year; one board member to serve an initial term of two years; one board member to serve an initial term of three years; and the remaining board member to serve the full term of four years; but thereafter the successor of each appointed board member shall serve the full term of four years. Vacancies on the board caused by death, resignation, refusal or inability to serve, shall be filled by appointment by the governor for the unexpired portion of the term. The officers of the board shall be a chairman, a vice chairman, a secretary, a treasurer, and such additional officers as may be created by the board from time to time. The board shall meet annually and officers shall be elected to hold office until the next annual meeting. The board shall have the right to formulate and establish bylaws not inconsistent with the provisions of this compact to govern its own actions in the performance of the duties delegated to it including the right to create and appoint an executive committee and a finance committee with such powers and authority as the board may delegate to them from time to time. The board may, within its discretion, elect as its chairman a person who is not a member of the board, provided such person resides within a signatory state, and upon such election such person shall become a member of the board with all the rights and privileges of such membership.

(2) It shall be the duty of the board to submit plans and recommendations to the states from time to time for their approval and adoption by appropriate legislative action for the development, establishment, acquisition, operation and maintenance of educational schools and institutions within the geographical limits of the regional area of the states, of such character and type and for such educational purposes, professional, technological, scientific, literary, or otherwise, as they may deem and determine to be proper, necessary or advisable. Title to all such educational institutions when so established by appropriate legislative actions of the states and to all properties and facilities used in connection therewith shall be vested in said board as the agency of and for the use and benefit of the said states and the citizens thereof, and all such educational institutions shall be operated, maintained and financed in the manner herein set out, subject to any provisions or limitations which may be contained in the legislative acts of the states authorizing the creation, establishment and operation of such educational institutions.

(3) In addition to the power and authority heretofore granted, the board shall have the power to enter into such agreements or arrangements with any of the states and with educational institutions or agencies, as may be required in the judgment of the board, to provide adequate services and facilities for graduate, professional and technical education for the benefit of the citizens of the respective states residing within the region, and such additional and general power and authority as may be vested in the board from time to time by legislative enactment of the said states.

(4) Any two or more states who are parties of this compact shall have the right to enter into supplemental agreements providing for the establishment, financing and operation of regional educational institutions for the benefit of citizens residing within an area which constitutes a portion of the general region herein created, such institutions to be financed exclusively by such states and to be controlled exclusively by the members of the board representing such states provided such agreement is submitted to and approved by the board prior to the establishment of such institutions.

(5) Each state agrees that, when authorized by the legislature, it will from time to time make available and pay over to said board such funds as may be required for the establishment, acquisition, operation and maintenance of such regional educational institutions as may be authorized by the states under the terms of this compact, the contribution of each state at all times to be in the proportion that its population bears to the total combined population of the states who are parties hereto as shown from time to time by the most recent official published report of the Bureau of Census of the United States of America; or upon such other basis as may be agreed upon.

(6) This compact shall not take effect or be binding upon any state unless and until it shall be approved by proper legislative action of as many as six or more of the states whose governors have subscribed hereto within a period of eighteen months from the date hereof. When and if six or more states shall have given legislative approval to this compact within said eighteen months' period, it shall be and become binding upon such six or more states sixty days after the date of legislative approval by the sixth state and the governors of such six or more states shall forthwith name the members of the board from their states as hereinabove set out, and the board shall then meet on call of the governor of any state approving this compact, at which time the board shall elect officers, adopt bylaws, appoint committees and otherwise fully organize. Other states whose names are subscribed hereto shall thereafter become parties hereto upon approval of this compact by legislative action within two years from the date hereof, upon such conditions as may be agreed upon at the time. Provided, however, that with respect to any state whose constitution may require amendment in order to permit legislative approval of the compact, such state or states shall become parties hereto upon approval of this compact by legislative action within seven years from the date hereof, upon such conditions as may be agreed upon at the time.

(7) After becoming effective this compact shall thereafter continue without limitation of time provided, however, that it may be terminated at any time by unanimous action of the states and provided further that any state may withdraw from this compact if such withdrawal is approved by its legislature, such withdrawal to become effective two years after written notice thereof to the board accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing state from its obligations hereunder accruing up to the effective date of such withdrawal. Any state so withdrawing shall ipso facto cease to have any claim to or ownership of any of the property held or vested in the board or to any of the funds of the board held under the terms of this compact.

(8) If any state shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said state as authorized by and in compliance with the terms and provisions of this compact, all rights, privileges and benefits of such defaulting state, its members on the board and its citizens shall ipso facto be and become suspended from and after the date of such default. Unless such default

shall be remedied and made good within a period of one year immediately following the date of such default this compact may be terminated with respect to such defaulting state by an affirmative vote of three-fourths of the members of the board (exclusive of the members representing the state in default), from and after which time such state shall cease to be a party to this compact and shall have no further claim to or ownership of any of the property held by or vested in the board or to any of the funds of the board held under the terms of this compact, but such termination shall in no manner release such defaulting state from any accrued obligation or otherwise affect this compact or the rights, duties, privileges or obligations of the remaining states thereunder.

3. In witness whereof this compact has been approved and signed by governors of the several states, subject, to the approval of their respective legislatures in the manner hereinabove set out, as of the eighth day of February, 1948.]

[173.718. COORDINATING BOARD TO ADMINISTER PROGRAM. — 1. The Missouri coordinating board for higher education is hereby designated to be the agency of the state of Missouri to administer the regional education program in cooperation with other southern states.

2. The defrayal of administrative cost of the regional education program, including payment of the annual membership fee assessed to the state of Missouri, shall be through general revenue appropriations to the Missouri coordinating board for higher education.]

[173.721. CONTINGENT EXPIRATION DATE. — Sections 173.715, 173.718 and this section shall expire two years after the formation of the midwestern higher education compact as contained in sections 173.700 to 173.710 and upon proper notice being given to the member states of the compact established pursuant to section 173.715.]

[174.266. TRUSTEES OF JASPER COUNTY JUNIOR COLLEGE DISTRICT AND MISSOURI WESTERN JUNIOR COLLEGE DISTRICT, CHANGE IN DUTIES AND POWERS OF. — 1. The board of trustees of the Jasper County Junior College district and the board of trustees of the Missouri Western Junior College district shall make an orderly transfer of all the property of the junior college districts, including but not limited to land and capital improvements to the state of Missouri on July 1, 1977, except that, the junior college districts shall retire all bonds for capital improvements commenced before the effective date of this act by levying a tax within their respective districts as provided in sections 178.770 to 178.890, RSMo, combined with funds available from any other sources. After all bonded indebtedness has been retired, each junior college district shall cease to exist, and no levy shall be made for junior college purposes.

2. After July 1, 1977, the board of trustees of the Jasper County Junior College district and the board of trustees of the Missouri Western Junior College district shall have no duties other than those specified by sections 174.241, 174.261 and 174.266 and shall not exercise any powers previously held. After September 28, 1979, the members of the board of trustees of the Jasper County Junior College district and the members of the board of trustees of the Missouri Western Junior College district shall continue in office for the balance of their terms. Vacancies on said boards of trustees will be filled by appointment by the boards of regents of the respective colleges.]

[192.010. AUTHORITY OF DEPARTMENT OF HEALTH AND SENIOR SERVICES — EXPIRATION THIRTY DAYS AFTER TRANSFER OF MISSOURI REHABILITATION CENTER TO UNIVERSITY OF MISSOURI. — 1. The department of health and senior services shall have such duties and powers as are assigned by law. The department of health and senior services shall also have control and administration over the Missouri rehabilitation center at Mt. Vernon as provided by law. The department of health and senior services shall also have such jurisdiction over the accounts of city and county tuberculosis hospitals as is imposed by law. The cancer

commission of the state of Missouri is hereby assigned to the department of health and senior services.

2. This section shall terminate thirty days following the date notice is provided to the revisor of statutes that an agreement has been executed which transfers the Missouri rehabilitation center from the department of health and senior services to the board of curators of the University of Missouri.]

[192.120. INSTRUCTION FOR CHILD PATIENTS IN REHABILITATION CENTERS. — The department of health and senior services is hereby authorized to provide for the teaching and training of children who are resident patients confined in the Missouri rehabilitation center at Mt. Vernon by employing certified teachers and instructors and purchasing equipment from any moneys appropriated for that purpose.]

[192.255. MEDICAL SERVICES FUND—PURCHASE OF PROPHYLACTIC DRUGS—FUNDS NOT TO REVERT — RULES AND REGULATIONS. — 1. All funds received by the state of Missouri from the federal government or from any other source which are granted for the purpose of purchasing prophylactic drugs for distribution to persons certified by a physician to be victims of rheumatic fever, and all money received by the department of health and senior services as proceeds from the sale of the drugs to the victims, shall be deposited in the state treasury to the credit of the "Medical Services Fund", which is hereby created.

2. All moneys credited to the medical services fund shall be appropriated by the general assembly only for the purchase of prophylactic drugs to be distributed to persons certified by a physician to be victims of rheumatic fever, for the distribution of the drugs and for the administration of the program.

3. The unexpended balance in medical services fund at the end of the biennium shall not be transferred to the general revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund of the state by the state treasurer.

4. The director of the department of health and senior services shall make and promulgate necessary rules and regulations for the administration of the funds appropriated pursuant to this section.]

[192.375. MISSOURI SENIOR ADVOCACY AND EFFICIENCY COMMISSION ESTABLISHED, MEMBERS, MEETINGS, DUTIES — SUNSET DATE. — 1. There is hereby established within the department of health and senior services the "Missouri Senior Advocacy and Efficiency Commission". The commission shall consist of the following fifteen members, or their designees, who are residents of this state:

- (1) The director of the department of health and senior services;
 - (2) Two members of the Missouri senate, appointed by the president pro tem of the senate;
 - (3) Two members of the Missouri house of representatives, appointed by the speaker of the house;
 - (4) A pharmacist licensed in the state of Missouri, recommended by the Missouri board of pharmacy and appointed by the governor;
 - (5) A representative of the Pharmaceutical Research and Manufacturers of America, appointed by the governor;
 - (6) One member of the Missouri silver-haired legislature, appointed by the governor;
 - (7) One member of the Missouri senior Rx commission, appointed by the governor;
 - (8) One representative from the assisted living community who currently serves on the personal independence commission, appointed by the governor;
 - (9) One representative of the Missouri area agency on aging, appointed by the governor;
 - (10) One member of the special health, psychological, and social needs of minority older individuals commission;
-

(11) One member of the governor's advisory council on aging, appointed by the governor;
(12) The lieutenant governor, who shall serve as chair of the commission; and
(13) One member from the Missouri council for in-home services, appointed by the governor. In making the initial appointment to the committee, the governor, president pro tem, and speaker shall stagger the terms of the appointees so that five members serve an initial term of one year, five members serve initial terms of two years and five members serve initial terms of three years. All members appointed thereafter shall serve three-year terms. All members shall be eligible for reappointment. Members of the commission shall be appointed by October 1, 2005. Members shall continue to serve until their successor is appointed and qualified. Any vacancy on the commission shall be filled in the same manner as the original appointment. The commission shall be dissolved on December 31, 2008.

2. Service on the commission shall be voluntary. Subject to appropriations, members of the commission shall receive with reasonable reimbursement for expenses actually incurred in the performance of the member's official duties for members who are not employees of the state of Missouri.

3. Subject to appropriations, the department of health and senior services shall provide administrative support and resources as is necessary for the effective operation of the commission.

4. Meetings shall be held at least every ninety days or at the call of the commission chair.

5. The senior advocacy and efficiency commission shall:

(1) Hold public hearings in accordance with chapter 536, RSMo, to gather information from any state agency, commission, or public entity on issues pertaining to the quality and efficiency of all senior services offered by the state of Missouri;

(2) Analyze state statutes, commissions, and administrative rules regarding services offered by the state of Missouri for senior citizens and designate which programs provide effective and efficient support to seniors and the programs that lack quality;

(3) Establish a mechanism to educate the staff of the members of the Missouri general assembly to assist seniors, including but not limited to assisting seniors in applying for any and all prescription drug assistance offered under the federal Medicare Prescription Drug Modernization Act of 2003;

(4) Develop a plan that delays the need for the provisions of long-term care outside the residence of senior citizens and allows seniors to remain at home for as long as possible;

(5) Maintain a web site with detailed information regarding all programs and services offered by the state of Missouri which are available to seniors;

(6) Maintain a toll-free senior advocacy support telephone number which directs seniors to all services offered by the state of Missouri which are available to seniors;

(7) Submit an annual report on the activities of the commission to the director of the department of health and senior services, the members of the Missouri general assembly, and the governor by February 1, 2007, and every February first thereafter. Such report shall include, but not be limited to, the following:

(a) Efficiencies that can be realized by consolidation of senior services offered by Missouri;

(b) Effectiveness of all senior services, programs, and commissions offered by the state of Missouri;

(c) Information regarding the impact and effectiveness of prior recommendations, if any, that have been implemented; and

(d) Measurable data to identify the cost-effectiveness of the services, programs, and commissions evaluated.

6. Unless reauthorized, the provisions of this section shall sunset on December 31, 2008.]

[195.405. REGISTRATION REQUIRED, EXCEPTIONS — APPLICATIONS, CONTENTS — FEES — RENEWAL — PENALTY. — 1. Any manufacturer, wholesaler, retailer, or other person

who sells, transfers, or otherwise furnishes any listed chemical specified in subsection 2 of section 195.400 to a person in this state or who receives from a source outside of this state any chemical specified in subsection 2 of section 195.400 shall obtain a registration for such conduct from the department of health and senior services.

2. No registration shall be required of any manufacturer, wholesaler, retailer, or any pharmacist, pharmacy, physician, dentist, podiatrist, veterinarian or optometrist, who administers, dispenses or furnishes a substance listed in subsection 2 of section 195.400 within the scope of his professional practice, or other person for the sale, transfer, furnishing, or receipt of any drug which contains any substance listed in subsection 2 of section 195.400 and which is lawfully sold, transferred or furnished over the counter without a prescription or by a prescription pursuant to the federal Food, Drug, or Cosmetic Act or regulations adopted thereunder.

3. No registration shall be required of any retailer for the sale, transfer, furnishing, or receipt of any product part of whose ingredients include a substance listed in subsection 2 of section 195.400 and which product is lawfully sold, transferred or furnished in the ordinary course of its business.

4. Applications for registration shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant and a full description of any substance sold, transferred, or otherwise furnished or received.

5. The department of health and senior services upon public notice and hearing may promulgate rules and establish reasonable fees to be charged relating to the registration and control of the manufacture, distribution, and dispensing of listed chemicals under subsection 2 of section 195.400.

6. Registration granted pursuant to this section may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a registration renewal fee.

7. Selling, transferring, or otherwise furnishing or receiving any substance listed in subsection 2 of section 195.400 without a registration is a class D felony.]

[195.410. REGISTRATION, QUALIFICATIONS FOR — SUSPENSION OR REVOCATION, GROUNDS, PROCEDURE — LIMITATIONS — DUTIES OF DEPARTMENT. — 1. No registration shall be issued under section 195.405 unless and until the applicant for such registration has furnished proof satisfactory to the department of health and senior services that:

(1) The applicant is of good moral character or, if the applicant is an association or corporation, that the managing officers are of good moral character; and

(2) The applicant is properly equipped as to land, building, and paraphernalia to carry on the business described in his application.

2. No registration shall be granted to any person who has within two years been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any misdemeanor offense or within seven years for any felony offense related to controlled substances or chemicals listed in subsection 2 of section 195.400.

3. The department of health and senior services shall register an applicant to manufacture, distribute, sell, transfer, or otherwise furnish listed chemicals unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of controlled substances or chemicals listed in subsection 2 of section 195.400 into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of an applicant under any federal or state laws relating to any controlled substance or chemicals listed in subsection 2 of section 195.400;

(4) Past experience in the manufacture or distribution of controlled substances or chemicals listed in subsection 2 of section 195.400 and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material information in any application filed under section 195.405; and

(6) Any other factors that the department of health and senior services determines to be relevant to and consistent with the public health and safety.

4. Registration does not entitle a registrant to manufacture and distribute chemicals listed in subsection 2 of section 195.400 other than those specified in the registrant's registration.

5. A registration to manufacture, distribute, sell, transfer, or otherwise furnish or dispense a controlled substance or chemical listed in subsection 2 of section 195.400 may be suspended or revoked by the department of health and senior services upon a finding that the registrant has:

(1) Furnished false or fraudulent material information in any application filed pursuant to sections 195.405 to 195.425;

(2) Been convicted of a felony under any state or federal law relating to any controlled substance or listed chemical;

(3) Had his federal authority to manufacture, distribute or dispense controlled substances or chemicals listed in sections 195.405 to 195.425 suspended or revoked; or

(4) Violated any federal controlled substances or chemicals statute or regulation, or any provision of sections 195.005 to 195.425 or regulation promulgated pursuant to sections 195.005 to 195.425.

6. The department of health and senior services may:

(1) Warn or censure a registrant;

(2) Limit a registration to particular listed chemicals;

(3) Limit revocation or suspension of a registration to a particular listed chemical with respect to which grounds for revocation or suspension exist;

(4) Restrict or limit a registration under such terms and conditions as the department of health and senior services considers appropriate for a period of five years;

(5) Suspend or revoke a registration for a period not to exceed five years; or

(6) Deny an application for registration. In any order of revocation, the department of health and senior services may provide that the registrant may not apply for a new registration for one to five years following the date of such order. Any stay order shall toll this time period.

7. The department of health and senior services shall promptly notify the Drug Enforcement Administration, United States Department of Justice or their successor agencies of all orders suspending or revoking registration and all forfeitures of controlled substances.

8. The department of health and senior services may suspend without an order to show cause any registration simultaneously with the institution of proceedings under subsection 5 of this section if the department of health and senior services finds that there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including review of such proceedings unless sooner withdrawn by the department of health and senior services, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.]

[195.415. RECORDS AND STOCKS OPEN FOR EXAMINATION — OFFICER'S DUTY OF CONFIDENTIALITY. — All prescriptions, orders, and records, required by sections 195.400 to 195.425, and stocks of controlled substances and substances listed in subsection 2 of section 195.400 shall be open for examination and inspection to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to controlled substances and chemicals. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a

prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.]

[195.425. REGISTRATION REQUIREMENT WAIVED BY DEPARTMENT, WHEN — REPORTING REQUIREMENT, EXCEPTIONS — RULES AND REGULATIONS, AUTHORITY TO PROMULGATE. — 1. The department of health and senior services shall, by regulation, waive the requirement for registration of certain manufacturers, wholesalers, retailers, or other persons if it finds it consistent with the public health and safety.

2. The department of health and senior services shall, by regulation, establish exemptions from the reporting requirements for the sales or transfers of substances listed in section 195.400 which are below quantity levels set by the department.]

[196.180. BOARD OF FLOUR INSPECTORS — DUTIES (ST. LOUIS). — The chamber of commerce of the city of St. Louis is hereby authorized to appoint a board of flour inspectors for the city of St. Louis, for the purpose of inspecting flour designed for shipment, under such rules and regulations as it may see fit to establish, whose brands, between buyer and seller, shall be evidence of the quality of the flour they represent, and which may have been subjected to said inspection.]

[196.725. WORDS PROHIBITED IN SALE OF BUTTER SUBSTITUTES. — It shall be unlawful for any person, firm or corporation to use in any way, in connection or association with the sale, or exposure for sale, or advertisement of any substance designed to be used as a substitute for butter, the word "butter", "creamery", or "dairy", except as otherwise required by the laws of this state; or the name or representation of any breed of dairy cattle, or any combination of such word, or words and representation, or any other words or symbols, or combination thereof, commonly used in the sale of butter.]

[196.730. VIOLATION A MISDEMEANOR — PENALTY. — Any person who violates any of the provisions of section 196.725 is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for a term of not less than sixty days nor more than one year, or by both such fine and imprisonment.]

[196.750. IMITATION BUTTER DEFINED. — For the purpose of sections 196.750 to 196.810, every article, substitute or compound, other than that produced from pure milk, or cream from the same, made in the semblance of butter and designed to be used as a substitute for butter made from pure milk, or cream from the same, is hereby declared to be "imitation butter".]

[196.755. COLORING OF IMITATION BUTTER PROHIBITED. — 1. No person shall combine any animal fat or vegetable oil or other substance with butter, or combine therewith or with animal fat or vegetable oil or combination of the two, or with either one, any other substance or substances whatever, any annatto or compound of the same, or any other substance or substances, for the purpose or with the effect of imparting thereto a yellow color, or any shade of yellow, so that such substitute shall resemble yellow or any shade of genuine yellow butter, nor introduce any such coloring matter or such substance or substances into any of the articles of which the same is composed; provided, nothing in said sections 196.750 to 196.810 shall be construed to prohibit the use of salt and harmless coloring matter for coloring the substitutes for butter manufactured for export or sale outside the state.

2. No person shall, by himself, his agents or employees, produce or manufacture any substance in imitation or semblance of natural butter, nor sell, nor keep for sale, nor offer for sale,

any imitation butter made or manufactured, compounded or produced in violation of this section, whether such imitation butter shall be made or produced in this state or elsewhere.

3. This section shall not be construed to prohibit the manufacture and sale, under the regulations herein provided, of substances designed to be used as a substitute for butter, and not manufactured or colored as herein prohibited.]

[196.760. LABELING OF IMITATION BUTTER. — Every person who lawfully manufactures any substance designed to be used as a substitute for butter shall mark, by branding, stamping or stenciling upon the top and side of each tub, firkin, box or other package in which such article shall be kept, and in which it shall be removed from the place where it is produced, in a clean and durable manner, in the English language, the words, "substitute for butter", in printed letters, in plain roman type, each of which shall not be less than one inch in length and one-half inch in width.]

[196.765. SHIPMENT OF IMITATION BUTTER UNDER ITS TRUE NAME. — No person, by himself, or another, shall ship, consign or forward by any common carrier, whether public or private, any substance designed to be used as a substitute for butter, and no carrier shall knowingly receive the same for the purpose of forwarding or transporting, unless it shall be manufactured and marked as provided in section 196.760, and unless it be consigned by the carrier and receipted for by its true name; provided, that said sections 196.750 to 196.810 shall not apply to any goods in transit between foreign states across the state of Missouri.]

[196.770. LABELING OF BUTTER AND OLEOMARGARINE, MIXED. — No person shall mix oleomargarine, suine, butterine, beef fat, lard or other foreign substance with any butter or cheese intended for human food without distinctly marking or stamping or labeling the article or package containing the same with the true and appropriate name of such article, and the percentage in which such oleomargarine or other such substance enters into its composition. Every person offering for sale must inform the purchaser of contents and makeup of article. Whoever shall violate the provisions of this section shall be punished as provided for by section 196.790.]

[196.775. BRANDING OF RENOVATED BUTTER. — No person, firm or corporation, agent or employee shall sell, offer or expose for sale, or deliver to any purchaser, any boiled, process or renovated butter, unless the words "renovated butter" shall be plainly branded in bold face letters, at least three-fourths of an inch in length, on the top and side of each tub, or box or pail, or other kind of case or package, or on the wrapper or prints or rolls of bulk packages in which it is put up. If such butter is exposed for sale uncovered or not in a case or package, a placard containing a label so printed shall be attached to the mass of butter in such a manner as to be easily seen and read by the purchaser. The branding or marking of all packages shall be in the English language and in a conspicuous place, so as to be easily read by the purchaser. Whoever shall violate the provisions of this section shall be punished as provided for by section 196.790.]

[196.780. POSSESSION OF SUBSTITUTE FOR BUTTER — PRESUMPTION. — No person shall have in his possession or under his control, any substance designed to be used as a substitute for butter, unless the tub, firkin, box or other package containing the same be clearly and durably marked, as provided by section 196.765; provided, that this section shall not be deemed to apply to persons who have the same in their possession for the actual consumption of themselves and family. Every person having in possession or control any substance designed to be used as a substitute for butter, which is not marked as required by the provisions of sections 196.750 to 196.810, shall be presumed to have known, during the time of such possession or control, the true character and name, as fixed by said sections of such product.]

[196.785. SALE OF IMITATION BUTTER. — No person, by himself or another, shall sell or offer for sale any substance designed to be used for a substitute for butter under the name of or under the pretense that the same is butter.]

[196.790. PENALTIES FOR VIOLATION. — Every person, firm or corporation who shall violate any of the provisions of sections 196.755 to 196.765, 196.780 and 196.785, shall forfeit and pay to the state of Missouri, for the use of the school fund for every such violation, the sum of fifty dollars and costs of suit, to be recovered by civil action in the name of the state of Missouri on the relation of any person having knowledge of the facts before an associate circuit judge, or circuit judge assigned to hear the cause, of the city or county where such violation occurs, subject to the right of an application for trial de novo or appeal, as the case may be, as in other civil cases; and it is further enacted that every person, firm or corporation who shall violate the provisions of sections 196.750 to 196.810, in addition to the civil liability to the state of Missouri herein provided, shall be deemed guilty of a misdemeanor, and shall for the first offense be punished by a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment not exceeding thirty days, and for each subsequent offense, by a fine of not less than two hundred and fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment, in the discretion of the court.]

[196.795. CERTIFICATE OF PROFESSOR OF CHEMISTRY PRIMA FACIE EVIDENCE. — A certificate of an analysis of any dairy product or adulteration imitation thereof, when duly signed by a professor of chemistry connected with any of the departments of the state university or experiment station, shall, when acknowledged before any person authorized to administer an oath, be received in the courts of this state as prima facie evidence of the facts stated therein, in all civil actions, as provided for in section 196.790.]

[196.800. WHOMAY NOT MAINTAIN ACTION. — No action can be maintained on account of any sale or other contract made in violation of or with intent to violate sections 196.750 to 196.810, by or through any person who was knowingly a party to such wrongful sale or other contract.]

[196.805. EFFACING MARK A MISDEMEANOR. — Whoever shall efface, erase, cancel or remove any mark provided for by sections 196.750 to 196.810, with intent to mislead, deceive, or to violate any of the provisions of said sections, shall be deemed guilty of a misdemeanor.]

[196.810. ENFORCEMENT. — The state department of agriculture shall be and is hereby charged with the enforcement of sections 196.750 to 196.810. Actions under said sections shall be brought in any court of competent jurisdiction.]

[197.314. INAPPLICABILITY OF SECTIONS TO DEMENTIA CARE UNITS IN CERTAIN COUNTIES (INCLUDING JACKSON COUNTY) AND TO CERTAIN NOT-FOR-PROFIT CORPORATIONS. — 1. The provisions of sections 197.300 to 197.366 shall not apply to any sixty-bed stand-alone facility designed and operated exclusively for the care of residents with Alzheimer's disease or dementia and located in a tax increment financing district established prior to 1990 within any county of the first classification with a charter form of government containing a city with a population of over three hundred fifty thousand and which district also has within its boundaries a skilled nursing facility.

2. The provisions of sections 197.300 to 197.366 shall not apply, as hereinafter stated, to a skilled nursing facility that is owned or operated by a not-for-profit corporation which was created by a special act of the Missouri general assembly, is exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, is owned

by a religious organization and is to be operated as part of a continuing care retirement community offering independent living, residential care and skilled care. This exemption shall authorize no more than twenty additional skilled nursing beds at each of two facilities which do not have any skilled nursing beds as of January 1, 1999.]

[197.317. CERTIFICATE NOT TO BE ISSUED FOR CERTAIN FACILITIES — UTILIZATION OF DEMOGRAPHIC DATA. — 1. After July 1, 1983, no certificate of need shall be issued for the following:

(1) Additional residential care facility, assisted living facility, intermediate care facility or skilled nursing facility beds above the number then licensed by this state;

(2) Beds in a licensed hospital to be reallocated on a temporary or permanent basis to nursing care or beds in a long-term care hospital meeting the requirements described in 42 CFR, Section 412.23(e), excepting those which are not subject to a certificate of need pursuant to paragraphs (e) and (g) of subdivision (10) of section 197.305; nor

(3) The reallocation of intermediate care facility or skilled nursing facility beds of existing licensed beds by transfer or sale of licensed beds between a hospital licensed pursuant to this chapter or a nursing care facility licensed pursuant to chapter 198, RSMo; except for beds in counties in which there is no existing nursing care facility. No certificate of need shall be issued for the reallocation of existing residential care facility or assisted living facility, or intermediate care facilities operated exclusively for the mentally retarded to intermediate care or skilled nursing facilities or beds. However, after January 1, 2003, nothing in this section shall prohibit the Missouri health facilities review committee from issuing a certificate of need for additional beds in existing health care facilities or for new beds in new health care facilities or for the reallocation of licensed beds, provided that no construction shall begin prior to January 1, 2004. The provisions of subsections 16 and 17 of section 197.315 shall apply to the provisions of this section.

2. The health facilities review committee shall utilize demographic data from the office of social and economic data analysis, or its successor organization, at the University of Missouri as their source of information in considering applications for new institutional long-term care facilities.]

[198.600. UNIFORM DATA MANAGEMENT PILOT PROGRAM ESTABLISHED, PURPOSE, MONITORING. — 1. The department of health and senior services shall establish a "Uniform Data Management Pilot Program" at a minimum of fifty selected facilities of varying licensure or classification throughout the state to improve patient care and retention of nursing facility staff. The department shall determine the nature and extent of the pilot program and provide all necessary resources.

2. The pilot program shall be implemented no later than six months after funding for the pilot program is made available.

3. The pilot program shall:

(1) Encourage the utilization of existing or the purchase of new software in an effort to modernize the procedures for compiling and disseminating data for long-term care facilities;

(2) Enable physicians, licensed nurses, and facility personnel to devote more quality time to patient care; and

(3) Be established in selected urban, rural, and regional sites throughout the state.

4. The department of health and senior services shall monitor the pilot program and report to the general assembly by January first next following the implementation of the pilot program pursuant to this section on the effectiveness of such program, including quality of care, employee satisfaction, and cost-effectiveness.]

[207.023. RULES PROMULGATED FOR COMMUNITY SERVICE COMMISSION BY DIVISION OF FAMILY SERVICES. — The division of family services within the department of social

services, with input from the Missouri community service commission created in sections 26.600 to 26.614, RSMo, shall promulgate rules providing standards and procedures for community service participation by persons receiving services from the division of family services. In order to be eligible to receive services from the division of family services, a person shall satisfy the requirements of the rules promulgated under this section regarding community service participation.]

[207.040. SALARY OF DIRECTOR. — The director of the division shall devote his entire time to his official duties and shall receive an annual salary of nineteen thousand dollars. It shall be his duty to investigate personally the conduct of the various bureaus of the division of family services, and to give executive control to the administration of the work of the division in this state.]

[207.050. COUNTY FAMILY SERVICES COMMISSION — QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES, VACANCIES, DUTIES. — In every county there may be established a county family services commission to consist of four persons, two from each of the two major political parties, to be selected by the director of social services from a list submitted to the director of the department of social services by the county commission, consisting of double the number of appointments to be made. Each member of the county family services commission shall serve for a term of four years. Vacancies shall be filled in the same way in which the original appointment was made. The duties of the county family services commission shall be advisory in nature with the power to examine the records of any case pending within their county and to make recommendations thereon. They shall serve without compensation, but shall be paid their traveling expenses and other necessary expense in the performance of their duty. No elective officer shall be appointed as a member of the county family services commission, and upon becoming a candidate for any elective office, such member of the county family services commission shall forthwith forfeit his or her position on the commission. Duties imposed by this law upon the several county commissions shall be performed in the city of St. Louis by the board of estimate and apportionment.]

[207.055. ADDITIONAL FAMILY SERVICES COMMISSION MEMBERS, QUALIFICATIONS. — 1. Within thirty days after August 13, 1972, the county commission of each county may appoint two additional members of the county family services commission, and such members shall be in addition to those members required by the provisions of section 207.050. Such members shall be residents of the county, one from each of the two major political parties and shall have been actual welfare recipients, and shall be appointed for terms of two years. If at any time these members remove their residence from the county, their office shall be vacant and another person shall be appointed for the remainder of their term.

2. The members appointed pursuant to the provisions of this section shall have the same rights, powers, duties and responsibilities as the other members of the commission, and all references of any kind to the county family services commission shall be to the commission as composed of six members instead of four.]

[208.344. WELFARE REFORM, PROGRESS REPORT TO BE SUBMITTED ANNUALLY BY DIVISION, CONTENT — EXPIRATION. — 1. By December 1, 2002, and annually thereafter, the division of family services shall submit a report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives regarding the progress of welfare reform in Missouri. The report shall include, but not be limited to, current statistics and recommendations regarding:

- (1) Individuals who have successfully left welfare and employment of such individuals;
 - (2) Individuals who remain on or have returned to welfare; and
 - (3) Benefits of welfare reform realized by families, employers, and the state.
-

2. The provisions of this section shall expire on December 31, 2007.]

[208.978. REPORT ON FUND — RECOMMENDATIONS — EXPIRATION DATE. — 1. The MO HealthNet oversight committee shall develop and report upon recommendations to be delivered to the governor and general assembly relating to the expenditure of funds appropriated to the health care technology fund established under section 208.975.

2. Recommendations from the committee shall include an analysis and review, including but not limited to the following:

(1) Reviewing the current status of health care information technology adoption by the health care delivery system in Missouri;

(2) Addressing the potential technical, scientific, economic, security, privacy, and other issues related to the adoption of interoperable health care information technology in Missouri;

(3) Evaluating the cost of using interoperable health care information technology by the health care delivery system in Missouri;

(4) Identifying private resources and public/private partnerships to fund efforts to adopt interoperable health care information technology;

(5) Exploring the use of telemedicine as a vehicle to improve health care access to Missourians;

(6) Identifying methods and requirements for ensuring that not less than ten percent of appropriations within a single fiscal year shall be directed toward the purpose of expanding and developing minority-owned businesses that deliver technological enhancements to health care delivery systems and networks;

(7) Developing requirements to be recommended to the general assembly that ensure not more than twenty-five percent of appropriations from the health care technology fund in any fiscal year shall be contractually awarded to a single entity;

(8) Developing requirements to be recommended to the general assembly that ensure the number of contractual awards provided from the health care technology fund shall not be fewer than the number of congressional districts within Missouri; and

(9) Recommending best practices or policies for state government and private entities to promote the adoption of interoperable health care information technology by the Missouri health care delivery system.

3. The committee shall make and report its recommendations to the governor and general assembly on or before January 1, 2008.

4. This section shall expire on April 15, 2008.]

[210.002. YEAR 2000 PLAN, AGENCIES TO DEVELOP, PURPOSE. — 1. The department of social services, the department of health and senior services, the department of mental health, the department of elementary and secondary education, the division of youth services, and the division of family services shall cooperate with the children's service commission to prepare a detailed, comprehensive "Year 2000 Plan" to provide the preventive services described in subsection 2 of this section.

2. The "Year 2000 Plan" shall provide recommendations for the development and implementation of coordinated social and health services which:

(1) Identify early problems experienced by children and their families and the services which are adequate in availability, appropriate to the situation, and effective;

(2) Seek to bring about meaningful change before family situations become irreversibly destructive and before disturbed psychological behavioral patterns and health problems become severe or permanent;

(3) Serve children and families in their own homes thus preventing unnecessary out-of-home placement or institutionalization;

(4) Focus resources on social and health problems as they begin to manifest themselves rather than waiting for chronic and severe patterns of illness, criminality, and dependency to develop which require long-term treatment, maintenance, or custody;

(5) Reduce duplication of and gaps in service delivery;

(6) Improve planning, budgeting, and communication among these state agencies serving children and families; and

(7) Develop outcome standards for measuring the effectiveness of social and health services for children and families.

3. Each such department or division shall cooperate with the commission to develop a specific plan which shall be made available to the governor and the members of the general assembly by December 1, 1988.]

[210.111. IDENTIFICATION OF CHILDREN RECEIVING FOSTER CARE, REPORT TO GENERAL ASSEMBLY, CONTENTS. — By January 1, 2005, the children's division shall identify all children in the custody of the division currently receiving foster care services and shall report to the general assembly the type of foster care being provided, including but not limited to care provided in a licensed foster care home, institutional setting, residential setting, independent living setting, or kinship care setting, and the status of all such children. Nothing in this section shall be construed as requiring the division to disclose the identity or precise location of any child in the custody of the division.]

[210.292. STATE TO REIMBURSE CERTAIN CITIES AND COUNTIES FOR COST OF FOSTER HOME CARE. — 1. Any city not within a county, which has a population of six hundred thousand inhabitants or over, and any county of the first class authorized by law to provide, and which does provide, foster care to homeless, dependent or neglected children shall receive from the state one hundred percent of the net cost thereof.

2. The "foster care" provided for by sections 210.292 to 210.298 shall be care of homeless, dependent or neglected children when the foster facilities are selected by the local agency or division of family services and the placement of children therein is lawfully authorized; the "care" shall include room, board, clothing, medical care, dental care, social services and incidentals.]

[211.013. DEFINITION OF CHILD, STATE COURTS ADMINISTRATOR TO CONDUCT A STUDY AND ISSUE A REPORT, WHEN. — The office of state courts administrator shall conduct a study and report to the general assembly by June 30, 2009, on the impact of changing the definition of child, as used in section 211.031, to include any person over seventeen years of age but not yet eighteen years of age alleged to have committed a status offense as defined in subdivision (2) of subsection 1 of section 211.031. The report shall contain information regarding the impact on caseloads of juvenile officers, including the average increase in caseload per juvenile officer for each judicial circuit, and the number of children affected by the change in definition.]

[211.015. EDUCATIONAL NEEDS OF CERTAIN CHILDREN UNDER JUVENILE COURT JURISDICTION, DEPARTMENTS TO CONDUCT A STUDY — REPORT, CONTENTS. — 1. For the purpose of promoting and improving the social, emotional, and educational welfare of pupils under the jurisdiction of the juvenile court or family court under subdivisions (1), (2), or (5) of subsection 211.031, the department of elementary and secondary education shall, in conjunction with the department of social services, conduct a study to determine the means of ensuring that such children's educational needs are met in terms of setting and amount, and submit a report on the study to the governor and Missouri general assembly on or before November 1, 2007.

2. The report shall include, but not be limited to, the following:

(1) Recommendations relating to detailed procedures and timetables to determine the appropriate amount of hours in a school day for the specific child;

(2) Recommendations on determining the appropriateness of the education for such children described under this section who do not have individualized education programs or are without a pending referral for special education services; and

(3) Recommendations for determining the responsibility, financial or otherwise, among either the local school district and child-placing agency or both as to the proper and timely placement of such children in an appropriate educational setting.]

[215.050. HOUSING DEVELOPMENT FUND, HOW MANAGED AND USED. — 1. The commission shall establish a fund to be known as the "Housing Development Fund". There shall be paid into the housing development fund:

(1) Any moneys appropriated and made available to the commission to carry out the purposes of this fund;

(2) Any moneys which the commission receives in repayment of advances or loans made from the fund; and

(3) Any other moneys which may be made available to the commission for the purpose of such fund from any other source or sources.

2. Moneys held in the housing development fund may be used to make noninterest-bearing advances to nonprofit corporations to defray development costs of constructing or rehabilitating residential housing if such housing complies with the standards set by the commission under sections 215.010 to 215.250. No noninterest-bearing advances may be made unless the commission may reasonably anticipate that permanent financing of the residential housing may be obtained.

3. Each advance shall be repaid in full concurrent with the receipt by the nonprofit corporation of the proceeds of the permanent financing or of the construction loan, unless the commission shall extend the period for the repayment of such advance, provided that no such extension shall be granted beyond the date of final payment under the permanent financing.

4. If the commission shall determine at any time that permanent financing may not be obtained, the advance shall become immediately due and payable and shall be paid from any assets of the residential housing project.]

[215.340. WORKFARE RENOVATION PROJECT CREATED — PURPOSE. — Sections 215.340 to 215.349 shall be known as the "Workfare Renovation Project". Subject to participation by qualifying cities, the Missouri housing development commission shall establish a two-year pilot project in each of the two cities defined in section 215.345 which shall provide for the renovation of property in the urban core of the city for subsequent purchase pursuant to the provisions of sections 215.340 to 215.349.]

[215.345. DEFINITIONS. — As used in sections 215.340 to 215.349, the following terms mean:

(1) "Agency", the participating city's administering agency of the workfare renovation project;

(2) "City", any city not within a county or any city with at least three hundred fifty thousand inhabitants which is located in more than one county;

(3) "Commission", the state housing development commission authorized pursuant to sections 215.010 to 215.250;

(4) "Federal poverty level", the first poverty income guidelines published in the calendar year by the United States Department of Health and Human Services;

(5) "Low income", a household income which does not exceed two hundred percent of the federal poverty level;

(6) "Project", the renovation of one or more properties on the urban core of the city which have been determined to be of substandard quality or condition and the subsequent sale of such property following renovation;

(7) "Renovate" or "renovation", the reconstruction, remodeling, repairing, weatherizing, installation of energy conservation measures or devices, and similar work necessary to make urban core city property safe, sanitary and decent, and make such property meet the minimum building code requirements and occupancy requirements of a city, as the term city is defined in this section.]

[215.347. WORKFARE RENOVATION PROJECT GOALS — POWERS OF THE COMMISSION — SALES OF PROPERTY, REQUIREMENTS — RULES INVALID WHEN. — 1. The workfare renovation project shall have the following goals:

- (1) To assist low-income individuals in learning a trade by providing them with an opportunity to participate in the renovation of urban core property; and
- (2) To create tax-producing property for the participating cities out of existing urban core city property.

2. The governing body of any city defined in section 215.345, by enacting the appropriate ordinances, may participate in the workfare renovation project by donating existing inner-city property to the project, submitting a plan for renovation in the city to the commission and establishing an agency to administer the project in such city pursuant to any authority delegated to such agency by the commission. In any city not within a county or any city with at least three hundred fifty thousand inhabitants which is located in more than one county, the Missouri housing development commission using available state resources shall assign, either directly or through contract, staff to oversee each respective city's project. In any city not within a county, such staff shall annually report the progress of the project to the mayor and the board of aldermen.

3. The commission may:

(1) Receive, hold and convey title to real estate on the workfare renovation project carried out by the participating city and receive and use for the purposes described in sections 215.340 to 215.355 any grants or loans made by the commission pursuant to section 215.035 or section 215.050;

(2) Approve all proposed inner-city property for renovation;

(3) Approve the workers who will perform the renovation and reconstruction work. The workers, to be selected from the local labor force, shall be capable of performing the work for which they will be hired, and shall be, as far as practicable, persons who are classified as low income or receiving public assistance and who are indigenous to the areas which are selected for renovation activity;

(4) Contract and be contracted with;

(5) Seek such legal and other professional and staff assistance deemed necessary to carry out the purposes of sections 215.340 to 215.355;

(6) Sell the properties renovated, but such sales shall be subject to the following requirements:

(a) Each property shall be sold only to a person who will be the actual owner of record of the property and will actually occupy the property for a period of not less than five years; and

(b) Each property shall be sold at a price which will allow the commission to recover all costs incurred by it in renovating and selling such property, including, but not limited to, the labor, materials and other renovation expenses;

(7) Do all other things necessary to implement and administer the residential renovation program authorized by sections 215.340 to 215.355, including administering a revolving fund for continued funding and operations of the program, and submitting an annual report on expenditures made in the previous fiscal year by December first, beginning in 1999, to the state auditor, the speaker of the house and the president pro tem of the senate;

(8) Utilize all appropriate tax credit and wage diversion programs offered through state departments to assist low-income residents of this state in becoming self-sufficient through the workfare renovation project.

4. No rule or portion of a rule promulgated pursuant to the authority of sections 215.340 to 215.355 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.]

[215.349. PROPERTIES FOR PROJECTS, HOW SELECTED — PUBLIC HEARINGS HELD TO OBTAIN COMMUNITY INPUT — FACTORS TO BE CONSIDERED. — Properties selected for renovation pursuant to the provisions of sections 215.340 to 215.349 shall be located in those areas of the urban core of the city which are in the greatest need of neighborhood rehabilitation. Each administering agency shall make a plan or plans to carry out the purposes of this section and such plans shall be available to the public. In making the plan or plans required by this section, each agency shall hold public hearings at reasonable times and places from which to obtain community input in order to assess the impact of any proposed plan on any neighborhood involved and to assist them in determining which neighborhood or neighborhoods shall be given the highest priority. The factors which the agency may consider, among all other relevant considerations, are:

- (1) The number of properties owned by the city in a neighborhood which could be renovated; and
- (2) The prior commitment of private developers to the area selected or adjacent areas for purposes of assuring that purchasers of such property can obtain financing and insurance.]

[215.351. APPROPRIATIONS USED FOR TRAINING. — State and federal funds appropriated to the department of economic development and the department of social services for job training shall be used to train eligible individuals participating in the workfare renovation project pursuant to sections 215.340 to 215.355.]

[215.353. HOUSING DEVELOPMENT COMMISSION TO USE WORKFARE RENOVATION PROJECT PROPERTIES, WHEN. — The Missouri housing development commission shall, to the extent possible and in conjunction with the participating cities, select properties for renovation pursuant to the workfare renovation project established in sections 215.340 to 215.355 so that diverse socioeconomic backgrounds and circumstances are reflected in the renovated neighborhoods and communities.]

[215.355. COLLABORATION FOR WORKFARE RENOVATION PROJECT. — The department of social services, the participating cities and the Missouri housing development commission shall consult and collaborate on issues involving funding and implementation of the workfare renovation project established in sections 215.340 to 215.355 to help ensure the success of the pilot project sites in meeting the objectives of the workfare renovation project.]

[217.860. TASK FORCE CREATED, DUTIES, MEMBERS, MEETINGS — EXPIRATION DATE. — 1. There is hereby created within the department of corrections a "Task Force on Alternative Sentencing". The primary duty of the task force is to develop a statewide plan for alternative sentencing programs. The plan shall include, but not be limited to, the following:

- (1) Public-private partnerships;
- (2) Job training;
- (3) Job placement;
- (4) Conflict resolution treatment; and
- (5) Alcohol and drug rehabilitation.

2. In developing this statewide plan the task force shall at a minimum acquire and review the following information:

- (1) The cost per year to incarcerate one offender;
- (2) The cost of the proposed alternative sentencing program or programs per year;
- (3) The recidivism rate for different types of offenses; and
- (4) Information and research to assist the task force in determining which classes of offenders should be targeted in alternative sentencing programs.

3. The task force created in this section shall be comprised of the following members or their designees from the entity represented:

- (1) The director;
- (2) The director of the division of probation and parole;
- (3) Two probation and parole officers or supervisors, who shall be appointed by the director of the division of probation and parole;
- (4) One member of the department of economic development's workforce development office who shall be appointed by the director of the department of economic development;
- (5) Two circuit or associate circuit judges who shall be appointed by the governor;
- (6) Two chief executive officers of two different private businesses that employ a minimum of twenty employees each who shall be appointed by the governor;
- (7) Two prosecuting attorneys who shall be appointed by the governor;
- (8) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house and one of whom shall be appointed by the house minority leader; and
- (9) Two members of the senate, one of whom shall be appointed by the president pro tem of the senate and one of whom shall be appointed by the senate minority leader.

4. The task force shall meet at least quarterly and shall submit its recommendations and statewide plan for an alternative sentencing program or programs to the governor, to the general assembly, and to the director by December 31, 2006.

5. Members of the task force shall receive no additional compensation but shall be eligible for reimbursement for mileage directly related to the performance of task force duties.

6. The provisions of this section terminate on May 31, 2007.]

[221.140. NECESSARY CLOTHING FOR PRISONER — COST, HOW PAID. — In case of any prisoner confined in any jail in this state on a charge of felony being in want of needful and necessary clothing, it shall be the duty of the jailer to procure the same, and to present his account therefor to the court having criminal jurisdiction for the county; and on said court being satisfied of the correctness of such account, shall certify the same for payment, as other costs in criminal cases, to the state auditor.]

[237.200. FERRYMAN PROTECTED AGAINST INTERFERENCE BY STEAMBOATS. — If the master or commander of any steamboat shall land at the platform or known landing place of any public ferry, and shall intentionally obstruct the passage of any ferryboat, or moor or unload against, over or upon the same, without the consent of the owner of such ferry, such master or owner of such steamboat shall forfeit and pay to the legal possessor of such ferry landing fifty dollars for each offense, to be recovered by civil action before an associate circuit judge, and shall be liable to an action for damages, to be recovered before any court having competent jurisdiction.]

[253.375. THOMAS HART BENTON HOMESTEAD MEMORIAL COMMISSION — MEMBERS, QUALIFICATIONS — DUTIES — EXPENSES — POWERS. — 1. As a necessary adjunct to the operation and maintenance of this memorial and historic site, as herein provided, there is hereby created a state advisory commission, to be known as "The Thomas Hart Benton Homestead Memorial Commission", to consist of twenty members, ten members to be appointed by the director of the department of natural resources, five members to be appointed by the president

pro tem of the senate and five members to be appointed by the speaker of the house. The appointees shall be selected from outstanding individuals, not restricted to citizens of the state, well-known for their interest in and knowledge of Thomas Hart Benton, his life and his work, and in addition thereto, the director of the department of natural resources, the chairman of the Missouri advisory council on historic preservation, which advisory commission, upon original appointment, is hereby empowered to organize itself and to elect its own officers for such term or terms as the commission shall from time to time determine. Any vacancy on the advisory commission shall be filled by the same official who appointed the person who left the commission thus creating such vacancy.

2. The commission shall be advisory to the division of state parks and recreation of the department of natural resources on all policy and administrative matters pertaining to planning, operation and maintenance, including museum activities, the employment of curators, staff employees or other persons, as may be needed.

3. The members of the commission shall not receive any compensation for their services, but shall be reimbursed for their actual and necessary expenses, excluding travel expenses, incurred within the state of Missouri in the performance of their duties.

4. The commission is empowered, in behalf of the state, to accept gifts, contributions, bequests of unrestricted funds, from individuals, foundations, corporations and other organizations or institutions for the furtherance of the objectives and purposes of this memorial.

5. The commission may request from any department, division, board, bureau, council, commission or other agency of this state such assistance and data as will enable it to properly carry out its powers and duties hereunder; and the director of the department of natural resources shall make provision for the staffing and servicing of the commission, and providing the necessary funding to carry out its duties, from funds appropriated or otherwise available to that department.]

[253.406. APPROPRIATION BY GENERAL ASSEMBLY TO FUND. — To initially establish this fund, the general assembly shall appropriate one million dollars to the historic preservation revolving fund. The initial appropriated amount shall not be construed to limit in any way the future balance of money in the fund.]

[260.481. DISINCORPORATION CERTAIN CITY, WHEN, PROCEDURE — TRUSTEE APPOINTMENT, DUTIES — EXPENDITURES (TIMES BEACH). — 1. Any fourth class city in any first class county with a charter form of government adjoining a city not within a county, which has contracted with the state of Missouri or the federal government, or both, for the acquisition of all real property by any federal or state agency because of the release of a hazardous substance that endangers the public health and welfare of such city and has resulted in a public calamity, and where a city ordinance effecting disincorporation has been submitted to the governor by the mayor of the city requesting disincorporation, shall be disincorporated upon the issuance of a governor's executive order approving such disincorporation. Notice of such disincorporation shall be submitted to the secretary of state and the county commission of the county within which such city lies.

2. Upon the issuance of the executive order as required in subsection 1 of this section, the governor shall appoint a person to act as trustee for the city so disincorporated and shall appoint legal counsel to assist such trustee as necessary. Before entering upon the discharge of his duties, the trustee shall take and subscribe on oath that he will faithfully discharge the duties of his office. The trustee shall be empowered to condemn property as required, to take title to property as it is acquired, to take over all records of the city and to exercise other duties as specified in section 79.520, RSMo, except that the trustee shall not be empowered to institute suits in behalf of the city without the express authorization of the governor.

3. When the trustee shall have closed the affairs of the city, and shall have paid all debts due by the city, he shall, at the request of the governor, pay over to the state treasurer all money

remaining in his hands and deliver to the agency designated by the governor all books, papers, records and deeds to acquired real property belonging to the disincorporated city.

4. Any expenditures incurred under this section will be paid first from excess city funds and then from the Missouri hazardous waste fund under section 260.391.]

[263.210. PACKING STRAW TO BE BURNED — FAILURE A MISDEMEANOR. — It shall be the duty of any person who shall ship or cause to be shipped into this state any fruit trees, queensware or other property of any kind or description packed in or with straw or grass of any kind, to burn said straw or grass at the time of unpacking the same, and if any such person shall not so destroy such grass or straw, he shall be deemed guilty of a misdemeanor.]

[278.010. PROVISIONS OF FEDERAL SOIL CONSERVATION AND ALLOTMENT ACT ACCEPTED. — 1. In order to cooperate with the federal government in bringing to the farm people of Missouri the full benefits of an act by the Congress of the United States, approved February 29, 1936, and generally known as "The Soil Conservation and Domestic Allotment Act" (16 U.S.C.A. § 590h) the policy and purposes of which are set forth in section 7(a) of the act as follows:

- (1) Preservation and improvement of soil fertility;
- (2) Promotion of the economic use and conservation of land;
- (3) Diminution of exploitation and wasteful and unscientific use of national soil resources;
- (4) The protection of rivers and harbors against the results of soil erosion in aid of maintaining the navigability of waters and water courses and in aid of flood control; and

- (5) Reestablishment, at as rapid a rate as the secretary of agriculture determines to be practicable and in the general public interest, of the ratio between the purchasing power of the net income per person on farms and that of the income per person not on farms that prevailed during the five year period, August, 1909 — July, 1914, inclusive, as determined from statistics available in the United States Department of Agriculture, and the maintenance of such ratio.

2. The state of Missouri through its legislature hereby accepts the provisions and requirements of said act.]

[278.020. CURATORS OF UNIVERSITY DESIGNATED AS STATE AGENCY. — The curators of the University of Missouri, herein referred to as the curators, acting by and through the agricultural extension service by it carried on in connection with the college of agriculture of the university of Missouri, are hereby designated as the agency of the state of Missouri to administer any plans authorized by this federal act which shall be approved by the Secretary of Agriculture of the United States, herein referred to as the Secretary of Agriculture, for the state of Missouri pursuant to provisions of said Soil Conservation and Domestic Allotment Act.]

[278.030. CURATORS TO FORMULATE STATE PLAN — PROCEDURE. — 1. The curators are hereby authorized, empowered and directed to formulate and submit to the Secretary of Agriculture in conformity with the provisions of said soil conservation and domestic allotment act, a state plan for each calendar year, beginning not later than for the calendar year 1938. It shall be the purpose of each such plan to promote such utilization of and such farming practices as the curators find will tend, in conjunction with the operation of such other plans as may be approved for other states by the Secretary of Agriculture, to preserve and improve soil fertility, promote the economic use of land, diminish the exploitation and wasteful and unscientific use of national soil resources, and reestablish and maintain the ratio between the purchasing power of the net income per person on farms and that of the income per person not on farms as defined in subsection (a), of section 7 of said Soil Conservation and Domestic Allotment Act.

2. Each such plan shall provide for adjustments in the utilization of land and in farming practices, through agreements with producers or through other voluntary methods, and for benefit payments in connection therewith, and also for such methods of administration not in conflict

with any law of this state and such reports as the Secretary of Agriculture finds necessary for the effective administration of the plan and for ascertaining whether the plan is being carried out according to its terms.]

[278.040. CURATORS AUTHORIZED TO RECEIVE GRANTS. — Upon the acceptance of each such plan by the Secretary of Agriculture, the curators, through its treasurer are authorized and empowered to receive all grants of money made pursuant to said Soil Conservation and Domestic Allotment Act for the purpose of enabling the state to carry out the provisions of such plan, and all such funds, together with any moneys which may be appropriated by the state for such purpose, shall be available to the curators for expenditures necessary in carrying out the plan, including administrative expenses, expenditures in connection with educational programs in aid of the plan, and benefit payments.]

[278.050. POWERS OF CURATORS. — In carrying out the provisions of each such plan, the curators shall have power to employ such agent or agencies and to establish such agencies, as it may find to be necessary; to cooperate with local and state agencies, and with agencies of other states and of the federal government; to provide for the conducting of research and to conduct educational activities in connection with the formulation and operation of such plan; to enter into agreements with the producers and to provide by other voluntary methods, for adjustments in the utilization of land and in farming practices, and for payments in connection therewith in amounts which the curators determine to be fair and reasonable.]

[301.273. HIGHWAY RECIPROCITY COMMISSION, OFFICERS, EXPENSES, MEETINGS, RECORDS. — 1. There is hereby created a "Missouri Highway Reciprocity Commission" to be composed of the governor, the attorney general, the director of the division of motor carrier and railroad safety in the department of economic development, the director of revenue, the superintendent of the Missouri state highway patrol and the director of the department of transportation, and any member may designate a qualified employee to act for and in the member's stead on the commission. The designation shall be made in writing filed with the commission and may be revoked at any time by the designating official. The commission shall elect from its members a chairperson and such other officers as it deems necessary, fix its times and places of meeting and determine its own procedure. The commission is hereby authorized to appoint a secretary, who shall have charge of the office of the commission and shall be the custodian of the records of the commission, and such other employees as shall be necessary to properly perform the duties of the commission and shall fix the compensation of such secretary and other employees within the amount appropriated by the general assembly.

2. The commission shall keep written records of the minutes of all meetings which shall be kept, together with copies of all agreements entered into and rules and regulations promulgated by the commission, in the office of the secretary of the commission. Such records shall be public records of the state of Missouri and shall be open to public inspection. All rules and regulations promulgated by the commission shall be filed in the office of the secretary of state and shall take effect and become operative not sooner than ten days after they are so filed.]

[301.3112. FRIENDS OF THE MISSOURI WOMEN'S COUNCIL SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual contribution of an emblem-use authorization fee to the Friends of the Missouri Women's Council. Any contribution given pursuant to this section shall be designated for breast cancer services only. The Friends of the Missouri Women's Council hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Friends of the Missouri

Women's Council derived from this section, except reasonable administrative costs, shall be used solely for the purpose of providing breast cancer services. Any person may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Friends of the Missouri Women's Council, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Friends of the Missouri Women's Council and shall bear the words "BREAST CANCER AWARENESS" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Friends of the Missouri Women's Council emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Friends of the Missouri Women's Council emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[307.176. CITIZENS BAND RADIO TEMPORARILY INSTALLED ON BUSES, REQUIREMENTS.

— A bus transportation company shall allow the driver or operator of a bus to temporarily install and operate in the bus a citizens band radio, technically limited to transmit and receive frequency of 27.065 megahertz and 27.185 megahertz, including earphones, antenna and any necessary equipment purchased and installed by the licensed driver or operator of the bus.]

[307.367. TRANSFER OF MONEYS TO THE MISSOURI AIR EMISSION REDUCTION FUND, WHEN, USE OF MONEYS, EXEMPTION FROM TRANSFER, MISSOURI AIR POLLUTION CONTROL FUND ABOLISHED, WHEN. — Prior to September 1, 2007, but no earlier than August 1, 2007, all moneys held in the Missouri air pollution control fund established under section 307.366 shall be transferred, as deemed necessary by the state treasurer and commissioner of administration, to the Missouri air emission reduction fund established in section 643.350, RSMo, to be used for the purposes of administering and enforcing the provisions of sections 643.300 to 643.355, RSMo. Prior to such date, any of the moneys in the Missouri air pollution control fund that are needed to pay any outstanding debt of the Missouri air pollution control fund, as determined by the state treasurer, shall be exempted from the provisions of this section. The Missouri air pollution control fund shall be officially abolished on September 1, 2007.]

[311.470. DRUGGISTS MAY SELL AND PHYSICIANS PRESCRIBE LIQUOR. — Any druggist may have in his possession intoxicating liquor purchased by him from a licensed vendor under a license pursuant to this law, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this state, and lawfully inspected, gauged and labeled as provided for in this law; such intoxicating liquor to be used in connection with the business of a druggist, in compounding medicines or as a solvent or preservative; provided, that nothing in this law shall prevent a regularly licensed druggist, after he procures a license therefor in compliance with this law, from selling intoxicating liquor in the original packages, but not to be drunk or the packages opened on the premises where sold; and provided further, that nothing in this chapter shall be

construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his professional judgment for any patient at any time, or prevent a druggist from selling intoxicating liquor to a person on prescription from a regularly licensed physician as above provided.]

[318.010. COUNTY COMMISSION MAY LICENSE KEEPERS OF BILLIARD TABLES. — The county commission shall have power to license the keepers of billiard tables and all similar tables upon which balls or cues are used. At each term, the clerk of said commission shall prepare and deliver to the collector of their county, as many blank licenses for the keepers of such tables herein mentioned as the respective commissions shall direct which shall be signed by the clerk and attested by the seal of the commission.]

[318.020. COLLECTOR TO DELIVER LICENSE. — The collector shall deliver to any person who shall have been licensed, a license to keep any such table mentioned in section 318.010 in their respective counties, for a term of twelve months, upon the payment by the applicant of the sum of twenty dollars for each billiard table, and ten dollars for each other table described in said section, and the collector shall countersign such license before delivering the same to the applicant; provided, that if the applicant be the keeper of more than one of such tables, the number may be named in one license, and in such case the clerk shall not be entitled to more than one fee as provided in section 318.050.]

[318.030. LIMIT ON LICENSE IN CITIES AND TOWNS. — No county commission, city or town authorities shall levy a greater amount for a license tax on any table mentioned in section 318.010, for county, city or town purposes, than is allowed for state purposes.]

[318.040. LIEN FOR LICENSE. — The state, county, city or town, as the case may be, shall have a lien, and a lien is hereby created in their favor, upon any such table mentioned in section 318.010, to the amount of the licenses thereon; and if any owner or keeper thereof shall fail or refuse to pay to the respective collectors or other persons authorized to collect the same, the amounts of the licenses due the state, county, city or town, within ten days after such table shall be set up, then it shall be the duty of the respective collectors or persons authorized to collect such licenses to levy upon and seize such table or tables, and sell the same at public auction, for cash, to pay the amount of said licenses.]

[318.050. COLLECTORS TO BE CHARGED FOR BLANKS. — The county commissions shall charge the collectors with all blank licenses delivered to them, and at every regular term shall settle with the collectors for all such licenses delivered to them, and credit them with all the blank licenses which they may return, and at the same time the collectors shall pay the clerk respectively fifty cents for every such blank license not returned.]

[318.060. CLERK TO CERTIFY TO STATE AUDITOR. — The collector shall stand chargeable with all the blank licenses not returned, and the county commission at each regular term shall cause the clerks to certify to the state auditor the amounts with which the collectors stand chargeable, who shall charge the respective collectors accordingly.]

[318.070. EXCEPTIONS. — This chapter shall not apply to any person having set up in his own private residence any one of such tables mentioned in section 318.010, when used for his own private use, and for the use of his family, nor to clubs where pool, billiard and other tables are used exclusively for club members and upon which no charge for playing is made.]

[318.080. PENALTY FOR KEEPING TABLE WITHOUT LICENSE. — Every person who shall keep or permit to be kept or used any one or more of the tables mentioned in section 318.010,

without having a license therefor, shall forfeit and pay not less than fifty nor more than four hundred dollars, to be recovered by indictment or information.]

[318.090. MINORS, CONSENT REQUIRED UNDER AGE SIXTEEN — ALCOHOLIC BEVERAGES SERVED ON PREMISES, MUST BE OVER TWENTY-ONE, VIOLATIONS, PENALTY — EXCEPTIONS. — 1. No licensed keeper of any table described in section 318.010 shall allow any person under the age of sixteen years to play on any such table without first having obtained the permission of such person's parent or guardian.

2. No licensed keeper of any table described in section 318.010 who serves alcoholic beverages or intoxicating wines and liquors in the establishment where the table is found shall allow any person under the age of twenty-one years to play upon such table; provided, however, that this subsection shall not apply to establishments where such tables described in section 318.010 are separate from the location where alcoholic beverages are served.

3. Any person who violates this section is guilty of an infraction for each violation.]

[318.100. KEEPERS OF TABLES TO DISPLAY LAW. — Every licensed keeper of one or more such tables mentioned in section 318.010 shall display in the room where the same is placed one or more placards, having section 318.090 conspicuously posted and printed thereon, in letters not smaller than ten-point type, for the information of players.]

[340.290. CERTAIN PROCEEDINGS NOT ABATED. — No judicial or administrative proceeding pending prior to August 28, 1992, shall be abated as a result of the repeal of chapter 340 and the enactment of sections 340.200 to 340.330.]

[342.010. QUALIFICATIONS OF STATIONARY ENGINEERS IN CERTAIN CITIES. — No person shall be authorized to manage, control or take charge of or act as engineer of any steam boiler, engine or apparatus, in any city in the state of Missouri having over twenty thousand inhabitants, who has not the requisite knowledge and ability to manage the same with safety to the lives and property of the inhabitants of such cities. No person shall be authorized to act as inspector of stationary steam engines, boilers or apparatus in any of the cities mentioned in this section who has not the qualifications herein mentioned. Any person who shall manage, control or take charge of or act as engineer of any steam boiler, engine or apparatus as indicated in this section, who shall not be a duly qualified engineer, shall be deemed to be guilty of a misdemeanor, and on conviction shall be fined not less than ten nor more than five hundred dollars.]

[342.020. INCORPORATED ASSOCIATIONS MAY GRANT CERTIFICATES. — Any incorporated association of qualified local steam engineers in any city as mentioned in section 342.010 shall be authorized to grant certificates of qualification to all persons who duly pass an examination before a committee of examiners, to be appointed by any such corporation, and are found competent to manage such steam engines, boilers and apparatus as mentioned in said section 342.010, such certificates to be signed by the examining committee, and to be issued under the signature of the president and the seal of said corporation, any such certificate to be prima facie evidence of the qualifications of the person to whom it is issued; no charge to be made for any such certificate, however, exceeding one dollar.]

[374.208. STUDY ON INSURANCE MARKETS — EXPIRATION DATE. — The director shall study and recommend to the general assembly changes to avoid unnecessary duplication of market conduct activities and to implement uniform processes and procedures for market analysis and market conduct examinations which will more effectively utilize resources to protect insurance consumers. The study shall be completed and recommendations provided by January 1, 2008.]

[376.990. STUDY TO BE CONDUCTED ON FINANCING OF THE STATE HEALTH INSURANCE POOL, CONTENTS, REPORT. — The board of directors of the state health insurance pool is hereby directed to conduct a study regarding the financing of the state health insurance pool. Such study shall include, but not be limited to, research and findings of how other states finance their state high-risk pools. The study shall consider alternative assessment approaches to the current assessment method employed in section 376.975. In addition to studying alternative financing mechanisms employed by other state high-risk pools, the board shall explore the ramifications of eliminating or reducing a carrier's ability to offset their assessments against their premium tax liability. The polestar of the study shall be establishing a stable funding source for the Missouri state health insurance pool while providing adequate health insurance coverage to Missouri's uninsurable population. The board of directors of the state health insurance pool shall submit a report of its findings and recommendations to each member of the general assembly no later than January 1, 2008.]

[386.220. RECIPROCITY CONTRACTS AND AGREEMENTS. — The commission may engage in any conferences with officials of any and all other states and the District of Columbia, territories and possessions of the United States and foreign countries for the purpose of promoting, entering into, and establishing fair and equitable reciprocal agreements or arrangements that in the judgment of the commission are proper, expedient, fair, and equitable and in the interest of the state of Missouri and the citizens thereof to the end that any motor carrier of passengers or property which operates motor vehicles and trailers into, out of, or through this state as a for hire motor carrier and which has paid all regulatory fees required by the state, District of Columbia, territory or possession of the United States or foreign country where the motor vehicles and trailers are duly licensed or registered pursuant to an agreement or arrangement entered into by the Missouri highway reciprocity commission, or if no such agreement or arrangement has been entered into, where the owner is a resident, shall not be required to pay fees prescribed in section 390.136, RSMo; but the provisions of this section shall be operative as to a motor vehicle and trailer duly licensed or registered in a state, District of Columbia, territory or possession of the United States or foreign country pursuant to an agreement or arrangement entered into by the Missouri highway reciprocity commission and if no such agreement or arrangement has been entered into, where the owner is a resident, upon which all regulatory fees have been paid, when operated for hire in Missouri only to the extent that, under the laws of the state, District of Columbia, territory or possession of the United States or foreign country, wherein such motor vehicle and trailer are registered like exemptions are granted motor vehicles and trailers duly licensed or registered in Missouri which may be conducting similar motor carrier operations for hire in such other state, District of Columbia, territory or possession of the United States, or foreign country.]

[389.440. RAILROADS CARRYING STOCK TO FURNISH CABOOSSES. — 1. Every individual, company or corporation owning, managing or operating, or who may hereafter own, manage or operate any railroad or part of a railroad over bridges or through tunnels, as well as elsewhere, in this state, who carry passengers or whose duty it is to carry livestock as a common carrier, are hereby required to furnish to all shippers of livestock, having a right to accompany the same, a caboose or other suitable car for the transportation of such shipper or shippers to the actual place of unloading such shipments.

2. And said owners or shippers shall be carried and furnished free transportation to the place of destination and return; provided, that only one man or person shall be carried free of charge for each consignment or shipment; and be it further provided, that all such cabooses or cars on such trains shall be furnished with a toilet room for the accommodation of passengers.

3. Any railroad, corporation or company doing business in this state refusing or failing to comply with the requirements of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than one hundred dollars nor more than five

hundred dollars for each day's negligence or refusing to comply with the requirements of this section after the enactment and passage of the same as required by law, and all moneys arising as such fine shall revert to the public school fund of this state.]

[389.450. CRIMINAL PENALTY FOR VIOLATION OF SECTION 389.440. — Any individual, company or corporation violating the provisions of section 389.440 shall, upon conviction thereof, be deemed guilty of a misdemeanor, and fined in any sum of not less than fifty nor more than five hundred dollars.]

[389.880. LOCOMOTIVE CABS TO BE ENCLOSED AND HEATED. — It shall be unlawful for any person, firm or corporation, operating a line of steam railroad in this state, to use or permit to be used within the state of Missouri, any steam locomotive engine, between the first day of October and the first day of April of the next succeeding year, unless the inside of the cab on such locomotive engine shall be supplied and equipped with not less than sixteen square feet of heating radiation on each side thereof; and unless such locomotive engine shall be supplied and equipped with suitable curtain or curtains, to be located between the tender and cab of such locomotive engine, in such manner as to exclude the rain, snow or wind from entering the cab thereof, nor unless any openings in the deck, running board or floor of such cab or the openings or windows in the sides and front of such cab shall be constructed so that said openings or windows may be so securely closed as to prevent as nearly as practicable wind, snow or rain from entering said openings or windows.]

[389.890. SEATS IN CABS, HOW CONSTRUCTED. — It shall be unlawful for any person, firm or corporation, operating a steam railroad within the state, after the first day of August, 1913, to use or permit to be used any locomotive engine within the state of Missouri, unless such locomotive engine shall be equipped with a seat on each side of the cab thereof, which seats shall consist of a series of spiral, coil or elastic springs, on the top of which shall be constructed a padding or cushion consisting of leather or a suitable substitute thereof, stuffed or packed with hair, moss or other suitable material commonly used for such purpose, which said seat, including the springs thereof, shall not be greater than six nor less than four inches in thickness.]

[389.895. SAFETY GLASS REQUIRED IN CABOOSE — DEFINED — EXCEPTION — ENFORCEMENT. — 1. It shall be unlawful for any person, firm, company, corporation, operating a railroad as a common carrier in this state, to hereafter build and put into operation, any car used as a caboose which does not conform to the requirements of this section.

2. Wherever glass or glazing materials are used in partitions, doors, windows, or wind deflectors, it shall be of the safety glass type. For the purpose of this subsection, safety glass is any type of glass or glazing material so manufactured, fabricated, treated or combined with other materials as to reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects, other external sources, or by glass or glazing material when the same is cracked or broken.

3. This section shall not apply to a caboose operated wholly within yard limits.

4. The motor carrier and railroad safety division of the department of economic development of Missouri shall be empowered to enforce the foregoing subsections and prosecute any violation thereof.]

[400.9-118. ADDITIONAL FEE COLLECTED BY SECRETARY OF STATE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee paid to the secretary of state as required in chapter 400.9. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, 2009.]

[402.225. SECTIONS 402.200 TO 402.220 EFFECTIVE SEPTEMBER 29, 1989. — The provisions of sections 402.200 to 402.220 shall be effective upon a determination by the department of mental health and notification to the revisor of statutes that there has been federal legislative or administrative assurance that participation in the trust as established herein will not jeopardize a beneficiary's eligibility for public assistance and will not reduce the payment of covered services for which the beneficiary is eligible, and not otherwise.]

[454.010. PURPOSES. — The purposes of sections 454.010 to 454.360 are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.]

[454.020. DEFINITIONS. — In sections 454.010 to 454.360 unless the context otherwise requires:

- (1) "Certification" shall be in accordance with the laws of the certifying state.
- (2) "Court" means the circuit court of this state and, when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.
- (3) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance or otherwise, and includes the duty to pay arrearages of support payments which are past due and unpaid.
- (4) "Governor" includes any person performing the functions of governor or the executive authority of any territory covered by the provisions of sections 454.010 to 454.360.
- (5) "Initiating court" means the court in which a proceeding is commenced.
- (6) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.
- (7) "Law" includes both common and statute law.
- (8) "Obligee" means any person to whom a duty of support is owed and a state or political subdivision thereof.
- (9) "Obligor" means any person owing a duty of support.
- (10) "Register" means to file in the Registry of Foreign Support Orders as required by the court.
- (11) "Registering court" means any court of this state in which the support order of the rendering state is registered.
- (12) "Rendering state" means any state in which a support order is originally entered.
- (13) "Responding court" means the court in which the responsive proceeding is commenced.
- (14) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.
- (15) "State" includes any state, territory, or possession of the United States, the District of Columbia, and any foreign jurisdiction in which this or a substantially similar reciprocal law has been enacted.
- (16) "Support order" means any judgment, decree or order of support, whether temporary or final, whether subject to modification, revocation or remission, regardless of the kind of action in which it is entered.]

[454.030. REMEDIES ADDITIONAL TO THOSE NOW EXISTING. — The remedies herein provided are in addition to and not in substitution for any other remedies.]

[454.040. EXTENT OF DUTIES OF SUPPORT. — Duties of support arising under the law of this state, when applicable under section 454.070, bind the obligor, present in this state, regardless of the presence or residence of the obligee.]

[454.050. INTERSTATE RENDITION. — The governor of this state may:

(1) Demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state;

(2) Surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of any person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or other state.]

[454.060. CONDITIONS OF INTERSTATE RENDITION. — 1. Before making the demand on the governor of any other state for the surrender of a person charged in this state with the crime of failing to provide for the support of any person, the governor of this state may require any prosecuting attorney of this state to satisfy him that at least sixty days prior thereto the obligee brought an action for the support under sections 454.010 to 454.360, or that the bringing of an action would be of no avail.

2. When under this or a substantially similar law, a demand is made upon the governor of this state by the governor of another state for the surrender of a person charged in the other state with the crime of failing to provide support, the governor may call upon any prosecuting attorney to investigate or assist in investigating the demand, and to report to him whether any action for support has been brought under sections 454.010 to 454.360 or would be effective.

3. If an action for the support would be effective and no action has been brought, the governor may delay honoring the demand for a reasonable time to permit prosecution of an action for support.

4. If an action for support has been brought and the person demanded has prevailed in that action, the governor may decline to honor the demand.

5. If an action for support has been brought and pursuant thereto the person demanded is subject to a support order, the governor may decline to honor the demand so long as the person demanded is complying with the support order.]

[454.070. CHOICE OF LAW. — Duties of support applicable under this law are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.]

[454.080. REMEDIES OF STATE OR SUBDIVISION FURNISHING SUPPORT. — Whenever the state or a political subdivision thereof furnishes support to an obligee, it has the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support. The state also may recover arrearages owed to the obligee under a court order or judgment and assigned to the state as a condition of eligibility for benefits under the aid to families with dependent children program.]

[454.090. ENFORCEMENT IRRESPECTIVE OF RELATION OF PARTIES. — All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under the provisions of sections 454.010 to 454.360, including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.]

[454.100. JURISDICTION — CIRCUIT JUDGE TO HEAR PROCEEDINGS — EXCEPTION. — Jurisdiction of all proceedings hereunder is vested in the circuit court. Such proceedings shall be heard by a circuit judge, except that said proceedings may be heard by an associate circuit judge if he is assigned to hear such case or class of cases or if he is transferred to hear such case or class of cases pursuant to other provisions of law or section 6 of article V of the constitution.]

[454.105. JURISDICTION OF COURT, LIMITED, HOW. — Participation in any proceeding under sections 454.010 to 454.360 does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.]

[454.110. CONTENTS OF PETITION FOR SUPPORT. — The petition shall be verified and shall state the name and, so far as known to the plaintiff, the address and circumstances of the defendant and his dependents for whom support is sought and all other pertinent information. The plaintiff may include in or attach to the petition any information which may help in locating or identifying the defendant such as a photograph of the defendant, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, or Social Security number.]

[454.120. PROSECUTING ATTORNEY TO REPRESENT PLAINTIFF, WHEN. — The prosecuting attorney upon the request of the court or of the state division of family services shall represent the plaintiff in any proceeding under sections 454.010 to 454.360.]

[454.130. PETITION FOR A MINOR. — A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem.]

[454.140. DUTY OF COURT OF THIS STATE AS INITIATING STATE. — If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction of the defendant or his property, it shall so certify and shall cause three copies of (1) the petition, (2) its certificate and (3) sections 454.010 to 454.360 to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.]

[454.150. COSTS AND FEES. — An initiating court shall not require the payment of either a filing fee or other costs from the obligee, but may request the responding court to collect fees and costs from the obligor. A responding court shall not require the payment of a filing fee or other costs from the obligee, but it may direct that all fees and costs requested by the initiating court and incurred in this state when acting as a responding state be paid in whole or in part by the obligor or by the appropriate county of the initiating state. These costs or fees do not have priority over amounts due to the obligee.]

[454.160. JURISDICTION BY ARREST. — If a court of this state believes that the obligor may flee, it may:

- (1) As an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or
- (2) As a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in an amount set by the court to assure his appearance at the hearing.]

[454.170. STATE INFORMATION AGENCY, DUTIES. — The division of family services is hereby designated as the "state information agency" under sections 454.010 to 454.360, and it shall:

(1) Compile a list of the courts and their addresses in this state having jurisdiction under sections 454.010 to 454.360 and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law, and

(2) Maintain a register of such lists received from other states and transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under sections 454.010 to 454.360.]

[454.180. DUTY OF COURT AND OFFICIALS OF THIS STATE AS RESPONDING STATE. — 1. After the court of this state acting as a responding state has received from the court of the initiating state the aforesaid copies the clerk of the court shall docket the cause and notify the prosecuting attorney of his action.

2. It shall be the duty of the prosecuting attorney diligently to prosecute the case. He shall take all action necessary in accordance with the laws of this state to give the court jurisdiction of the defendant or his property and shall request the court to set a time and place for a hearing.]

[454.190. PROSECUTING ATTORNEY TO TRACE DEFENDANT — TRANSMISSION OF PROCEEDINGS. — 1. The prosecuting attorney shall, on his own initiative, use all means at his disposal to trace the defendant or his property and if, due to inaccuracies of the petition or otherwise, the court cannot obtain jurisdiction, the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition from the court in the initiating state.

2. If the defendant or his property is not found in the county and the prosecuting attorney discovers by any means that the defendant or his property may be found in another county of this state or in another state he shall so inform the court and thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that it forward the documents to the proper court. Thereupon both the court of the other county and any court of this state receiving the documents and the prosecuting attorney have the same powers and duties under sections 454.010 to 454.360 as if the documents had been originally addressed to them. When the clerk of a court of this state retransmits documents to another court, he shall notify forthwith the court from which the documents came.

3. If the prosecuting attorney has no information as to the whereabouts of the obligor or his property he shall so inform the initiating court.]

[454.200. DUTY TO SUPPORT, HEARING TO DETERMINE, EVIDENCE ALLOWED, DEFENSES ALLOWED — PATERNITY, HOW ADJUDICATED. — 1. If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the court, upon the request of either party, shall continue the hearing to permit evidence relative to the duty of support to be introduced by either party by deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

2. If the action is based on a support order issued by another court, a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity or to a defendant in an action or a proceeding to enforce a foreign money judgment.

3. If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and, if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either

or both of the parties is not necessary, the court may adjudicate the paternity issue; otherwise, the court may adjourn the hearing until the paternity issue has been adjudicated.

4. In any proceeding under sections 454.010 to 454.360 in which paternity is at issue, the provisions of sections 210.822 and 210.834, RSMo, shall apply.]

[454.210. EVIDENCE OF HUSBAND AND WIFE. — Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under sections 454.010 to 454.360. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage.]

[454.220. ORDER OF SUPPORT. — If the court of the responding state finds a duty of support, it may order the defendant to furnish support or reimbursement therefor and subject the property of the defendant to such order.]

[454.230. COPY OF ORDERS OF SUPPORT TRANSMITTED TO INITIATING STATE. — The court of this state when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or for reimbursement therefor.]

[454.240. ADDITIONAL POWERS OF COURT. — In addition to the foregoing powers, the court of this state when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

(1) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant;

(2) To require the defendant to make payments at specified intervals to the clerk of the court and to report personally to such clerk at such times as may be deemed necessary;

(3) To punish the defendant who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court; and

(4) To impose a withholding order against the wages or other income of the defendant pursuant to section 452.350, RSMo.]

[454.250. DUTIES OF CLERK WHEN ACTING AS RESPONDING STATE. — The court of this state when acting as a responding state shall have the following duties which may be carried out through the clerk of the court:

(1) Upon the receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and

(2) Upon request, to furnish to the court of the initiating state a certified statement of all payments made by the defendant.]

[454.260. CLERK TO DISBURSE PAYMENTS BY DEFENDANT FROM RESPONDING STATE. — The courts of this state when acting as an initiating state shall have the duty which may be carried out through the clerk of the court to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state.]

[454.270. PROCEEDINGS NOT TO BE STAYED — SUPPORT ORDER PENDENTE LITE, WHEN. — A responding court shall not stay the proceeding or refuse a hearing under the provisions contained in sections 454.010 to 454.360 because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof, it may require the obligor to give a bond for the prompt prosecution of the

pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the petition pending, the court before which such petition is pending may conform its support order to the amount allowed in the other action or proceeding. Thereafter, such court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.]

[454.275. APPEAL OF SUPPORT ORDER BY DIRECTOR, WHEN. — If the director of the division of family services is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may perfect an appeal to the proper appellate court if the support order was issued by a court of this state.]

[454.280. APPLICATION OF PAYMENTS. — No order of support issued by a court of this state when acting as a responding state shall supersede any other order of support but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.]

[454.290. ADDITIONAL REMEDIES. — If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.]

[454.300. REGISTRATION. — The obligee may register the foreign support order in a court of this state in the manner, with the effect and for the purposes herein provided.]

[454.310. REGISTRY OF FOREIGN SUPPORT ORDERS. — The clerk of the court shall maintain a Registry of Foreign Support Orders in which he shall file foreign support orders.]

[454.320. PETITION FOR REGISTRATION. — The petition for registration shall be verified and shall set forth the amount remaining unpaid and a list of any other states in which the support order is registered and shall have attached to it a certified copy of the support order with all modifications thereof. The foreign support order is registered upon the filing of the petition subject only to subsequent order of confirmation.]

[454.330. JURISDICTION AND PROCEDURE. — The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to a defendant in an action on a foreign judgment. If the obligor defaults, the court shall enter an order confirming the registered support order and determining the amounts remaining unpaid. If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid.]

[454.340. EFFECT AND ENFORCEMENT. — The support order as confirmed shall have the same effect and may be enforced as if originally entered in the court of this state. The procedures for the enforcement thereof shall be as in civil cases.]

[454.350. UNIFORMITY OF INTERPRETATION. — This law shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.]

[454.355. PROVISIONS OF LAW APPLICABLE, WHEN — COURT HAS DUTIES OF A RESPONDING STATE, WHEN. — The provisions contained in sections 454.010 to 454.360 apply if both the obligee and the obligor are in this state but in different counties, or if both the obligor and obligee are residents of the same county. If the court of the county in which the petition is filed finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another county in this state may obtain jurisdiction

over the obligor or his property, the clerk of the court shall send the petition and a certification of the findings to the court of the county in which the obligor or his property is found. The clerk of the court of the county receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the county to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for this state as a responding state, including, but not limited to, the registration of an order for support entered by another court within this state. Such a registered order shall have the same effect and may be enforced as if originally entered by the court of the responding county.]

[454.360. SHORT TITLE. — Sections 454.010 to 454.360 may be cited as the "Uniform Reciprocal Enforcement of Support Law". In all cases filed by Missouri or received by Missouri under the provisions of the uniform reciprocal enforcement of support act, sections 454.010 to 454.360, prior to January 1, 1997, the provisions of the uniform reciprocal enforcement of support act, sections 454.010 to 454.360, shall continue to apply. In all other cases, the provisions of the uniform interstate family support act, sections 454.850 to 454.980, shall apply.]

[454.800. DEFINITIONS. — As used in sections 454.800 to 454.808, the following terms mean:

- (1) "Advance planning documents", a series of documents including updates covering the various phases of the project submitted to the federal Office of Child Support Enforcement for review and approval;
- (2) "Project" or "system", the comprehensive, statewide automated system developed and implemented by the division of child support enforcement in compliance with section 454 of the Social Security Act (42 U.S.C. 654);
- (3) "Steering committee", the statewide automated system steering committee.]

[454.802. STATEWIDE AUTOMATED STEERING COMMITTEE APPOINTED, QUALIFICATIONS. — The director of the department of social services shall appoint a "Statewide Automated System Steering Committee", which shall be composed of the following members:

- (1) The state courts administrator or his designee;
- (2) The director of the department of social services or his designee;
- (3) The director of the division of child support enforcement or his designee;
- (4) The director of the division of family services or his designee;
- (5) The director of the division of data processing of the department of social services or his designee;
- (6) Three or more prosecuting attorneys or their designees. Such prosecuting attorneys shall be appointed from a list submitted to the director from the Missouri office of prosecution services;
- (7) Two or more circuit clerks or their designees;
- (8) Three or more representatives from the private sector, two of whom shall be representatives of business and one of whom shall be a custodial parent; and
- (9) Such other interested parties as the director may deem appropriate.]

[454.804. TERMS OF COMMITTEE — EXPENSES. — Steering committee members shall serve as long as they hold the position that made them eligible for the membership on the steering committee, or until they are replaced by the director of the department of social services. Members shall serve without additional compensation, but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.]

[454.806. COMMITTEE'S DUTIES AND POWERS. — The steering committee shall advise the department of social services regarding the development and implementation of a comprehensive statewide automated system for child support enforcement that meets all functional requirements for federal funding under 42 U.S.C. 654. The automated system shall not alter program functions delegated to the department of social services, prosecuting attorneys, circuit attorneys, and circuit clerks by chapters 208, 210, 452, and 454, RSMo. The system shall be the sole child support enforcement system undertaken by the state.]

[460.100. TRUSTEE MAY SUE AND BE SUED — RIGHT TO ATTORNEY AND COSTS OF LITIGATION. — Such trustee may sue for and recover, in his own name, any of the estate, property or effects belonging to, and all debts and sums of money due, or to become due, to such imprisoned convict, and may prosecute and defend all actions commenced by or against such convict. By leave of court, such trustee may employ counsel and, subject to court approval, pay reasonable attorney fees and expenses of litigation, to prosecute or defend such actions.]

[460.250. COMPENSATION OF TRUSTEE. — The trustee shall be allowed reasonable compensation to be determined by the court together with expenses of administration to be paid from the trust estate.]

[490.610. COPY OF ENROLLMENT OF STEAMBOAT. — A copy of the enrollment of any steamboat in any customhouse or in the office of any surveyor and inspector of customs, duly certified by the proper officer, shall, as against the persons described as owners of such steamboat in such enrollment, be prima facie evidence that they are the owners thereof.]

[620.155. MISSOURI RURAL ECONOMIC DEVELOPMENT COUNCIL ESTABLISHED, MEMBERS, QUALIFICATIONS, APPOINTMENT. — There is hereby established the "Missouri Rural Economic Development Council". The council shall consist of six members, including the lieutenant governor, the director of the department of agriculture, the director of the department of economic development, and the director of the extension division of the University of Missouri. The other two members shall be one senator appointed by the president pro tem of the senate and one representative appointed by the speaker of the house of representatives.]

[620.156. COUNCIL NOT TO BE COMPENSATED FOR SERVICES BUT TO BE PAID EXPENSES — OFFICERS, TERMS — STAFF. — Members of the council shall not be compensated for their services, but they shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. The members of the council shall organize by electing one member as chairman and another as vice chairman. Such officers shall serve for terms of two years. The office of rural development of the department of economic development, established by section 620.161, shall provide staff to the council to aid it in the performance of its duties.]

[620.157. COUNCIL'S POWERS AND DUTIES. — The specific duties of the Missouri rural economic development council shall include, but not be limited to, the following:

- (1) Investigate and evaluate new methods to enhance rural economic development in Missouri;
 - (2) Aid in the development of rural economic diversification through private enterprises, including technologically innovative industries and value-added manufacturing;
 - (3) Adopt a comprehensive state rural investment guide;
 - (4) Make investments in rural economic development projects to stimulate rural development and diversification, including investments in applied technological research and agricultural technology assistance and transfer, as allowed by appropriations provided by the general assembly;
-

(5) Make recommendations to the office of rural development for the award of grants-in-aid under the rural communities assistance program, as provided for in section 620.163;

(6) Assist existing businesses and encourage new businesses which promote resource recovery, waste minimalization, and recycling.]

[620.158. RURAL INVESTMENT GUIDE, COUNCIL TO DEVELOP, CONTENTS, PURPOSE — DISTRIBUTION — SECTIONS 620.155 TO 620.158 EXPIRE, WHEN. — 1. The council, after appropriate study, shall adopt a comprehensive state rural investment guide consisting of policy statements, objectives, standards, and program criteria to guide state agencies in establishing and implementing programs relating to rural development. The guide must recognize the community and economic needs, and food and agricultural policy, and the resources of rural Missouri, and provide a plan to coordinate and allocate public and private resources to the rural areas of the state. The council shall submit the guide to the appropriate committees of the general assembly.

2. Sections 620.155 to 620.158 shall expire on June 30, 2010.]

[620.160. RURAL COMMUNITY AND SPONSORING ORGANIZATION — DEFINED. — As used in sections 620.160 to 620.165, the following terms mean:

(1) "Rural community", any city, town, or village having a population of fewer than fifteen thousand inhabitants located in a county that is not part of a standard metropolitan statistical area as defined by the United States Department of Commerce or its successor agency. However, any such city, town or village located in a county so defined as a standard metropolitan statistical area may be designated a rural community by the office of rural development if a substantial number of persons in such county derive their income from agriculture and in any county where there is only one city within the county which has a population of more than fifteen thousand and which classifies as a standard metropolitan statistical area, all other cities, towns and villages in that county having a population of less than fifteen thousand shall be designated as a rural community;

(2) "Sponsoring organization", any city government, county commission, or industrial development corporation authorized by chapter 349, RSMo, located in a county specified in subdivision (1) of this section.]

[620.161. OFFICE OF RURAL DEVELOPMENT CREATED — DIRECTOR, APPOINTMENT — POWERS AND DUTIES — STAFF. — 1. There is hereby created within the department of economic development an "Office of Rural Development". The office of rural development shall be under the supervision and control of a director, who shall be appointed by the director of the department of economic development. Until June 30, 2000, the office of rural development shall be responsible for providing staff support to the Missouri rural economic development council. The office shall assist qualifying rural communities located in this state to achieve the following goals, which are listed in order of priority:

(1) Assist existing businesses and employers to ensure their viability within the rural communities;

(2) Assist existing businesses and employers in job creation and expansion within the communities and assist in the identification of financing alternatives;

(3) Provide assistance to communities in attracting new employers;

(4) Assist existing businesses and encourage new businesses which promote resource recovery, waste minimalization, and recycling.

2. Subject to appropriations by the general assembly, the director of the office of rural development shall employ support staff that he deems necessary to administer this act.]

[620.163. RURAL COMMUNITIES ECONOMIC ASSISTANCE PROGRAM — GRANTS-IN-AID MADE TO QUALIFYING COMMUNITIES — EXPIRATION DATE — APPLICATION — FUNDING — DISTRIBUTION, AMOUNT PER COMMUNITY — MATCHING LOCAL FUNDS, AMOUNT

REQUIRED — SPONSORING ORGANIZATION TO FURNISH CERTAIN SUPPLIES AND SERVICES.

— 1. There is hereby established a "Rural Communities Economic Assistance Program", which shall be administered by the office of rural development. Under the auspices of the rural communities economic assistance program and, until June 30, 2000, with the recommendations of the Missouri rural economic development council, the office of rural development shall have the authority, until June 30, 2010, to make available to qualifying rural communities grants-in-aid designed to achieve the goals stated in subsection 1 of section 620.161. The grants-in-aid awarded pursuant to this authority may be funded out of the general revenue fund or from any other available source allowed by law.

2. The office of rural development shall take applications for grants-in-aid from sponsoring organizations on behalf of rural communities. The applications shall be designed by the office of rural development and shall contain information necessary to determine the potential economic benefits of grants-in-aid to be awarded, as well as other information deemed necessary for the administration of this program.

3. The grants-in-aid to be awarded under the rural communities economic development assistance program shall be distributed to not more than twenty communities chosen by the office of rural development with the recommendations of the Missouri rural economic development council so long as it exists from the applications received prior to February twenty-eighth of each year. The grants-in-aid shall be distributed on July first of each year to such communities in an amount not to exceed thirty thousand dollars per community. No community may receive grants-in-aid for more than two consecutive years. In order to qualify for a grant-in-aid from the office of rural economic development, each community must match the amount of the grant with local funds equal to one-third of the grant-in-aid.

4. The sponsoring organization of each community chosen to receive a grant-in-aid from the office of rural economic development shall provide the community with equipment, office space, telephone service, stationery, and such other office supplies and services as are necessary to accomplish the goals set forth in subsection 1 of section 620.161 and in the application submitted to the office of rural economic development. The provision of such supplies and services by the sponsoring organization may be used to meet the one-third fund match requirement set forth in subsection 3 of this section.]

[620.164. COMMUNITIES RECEIVING GRANTS-IN-AID TO EMPLOY PERSONNEL, DUTIES.

— 1. Communities receiving grants-in-aid under the rural communities economic assistance program shall hire such personnel as are necessary to administer a program designed to bring about economic development in the community. Such personnel shall coordinate with the sponsoring organization or its contractual designee pursuant to subsection 2 of this section to maximize the utilization of funds and resources. Such personnel shall work toward achieving the goals of the office of rural development within the community and shall also assist in the development of and investment opportunities within the community, and shall generally encourage entrepreneurship within the community. The office of rural development shall encourage the communities to continue to fund local development offices after the expiration of the program grants-in-aid for their communities. As nearly as possible, the office of rural development shall require communities receiving such grants-in-aid to cooperate with adjacent rural communities in an effort to stimulate regional economic development.

2. Sponsoring organizations may enter into contracts with chambers of commerce, regional planning commissions as defined in chapter 251, RSMo, or other entities involved in economic development approved by the council to provide for the administration of grants-in-aid made pursuant to this act.]

[620.165. TRAINING SEMINARS AND TECHNICAL ASSISTANCE BY OFFICE OF RURAL DEVELOPMENT FOR LOCAL DEVELOPMENT PERSONNEL — EXTENSION DIVISION OF MISSOURI UNIVERSITY AND DEPARTMENT TO COOPERATE. — 1. The office of rural

development shall furnish technical assistance to communities and local rural development personnel by administering training seminars for such local development personnel. The office may also furnish market surveys, feasibility studies, prospect lists and other data to local rural development offices upon request for such available information.

2. The extension division of the University of Missouri and the department of economic development shall cooperate in the implementation of sections 620.155 to 620.165.]

[620.170. LAW, HOW CITED — DEFINITIONS. — 1. Sections 620.170 to 620.174 may be cited as the "Missouri Export Development Office Act".

2. As used in sections 620.170 to 620.174, the following terms mean:

(1) "Board", the Missouri economic development, export and infrastructure board;
(2) "Director", the executive director of the Missouri export development office;
(3) "Export trade assistance" includes, but is not limited to, staff assistance provided by the office to potential Missouri exporters in the areas of international market research, advertising, marketing, insurance, legal assistance, transportation, including trade documentation and freight forwarding, and processing of foreign orders to and for exporters and foreign purchases and warehousing, when undertaken to export or facilitate the export of goods or services produced or assembled in this state;

(4) "Financial institution", any credit union, bank or savings and loan association regulated by the state of Missouri or the United States government; any insurance company authorized to transact business in Missouri, or any person or institution whose primary business is lending money and who is regulated by the state;

(5) "Office", the Missouri export development office, created by sections 620.170 to 620.174.]

[620.173. COMPUTERIZED MARKETING CENTER, OFFICE TO ESTABLISH, PURPOSES. — In addition to the duties described in subsection 1 of section 620.158, the Missouri export development office shall establish, as soon as practicable, a computerized marketing center to aid in the exporting of goods and services of Missouri's small and medium-sized businesses. The establishment of the marketing center shall be carried out in conjunction with personnel of the department of economic development's management information system. The purpose of the center shall be to provide an inventory of goods and services of Missouri businesses which are appropriate and available for exporting. The marketing center shall also develop a marketing plan which shall attempt to match specific goods and services of Missouri businesses with international communities and with selected international target markets.]

[620.174. DIRECTOR OF EXPORT DEVELOPMENT OFFICE, APPOINTMENT, QUALIFICATIONS — STAFF. — The director of the department of economic development shall appoint an executive director of the Missouri export development office. The director shall be knowledgeable about private and public export assistance and export financing programs and may employ staff as necessary to carry out the provisions of sections 620.170 to 620.174.]

[620.176. ECONOMIC DEVELOPMENT EXPORT AND INFRASTRUCTURE BOARD PERSONNEL, PARTICIPATION IN MEDICAL BENEFITS PLAN, CONDITIONS — CONTRIBUTION, PAYMENT — FAMILY MEMBERS PARTICIPATION, QUALIFICATIONS. — Any person who is appointed or employed by the Missouri economic development export and infrastructure board who is not an employee of the state of Missouri and a member of a retirement system supported in whole or in part by the state of Missouri may participate in a state-supported plan for medical benefits if the board elects to contribute an amount per each such person equal to the amount that the state contributes for each covered state employee for medical benefits under the provisions of section 104.515, RSMo. The board shall pay the amount to be contributed to the commissioner of administration for transmittal and deposit in the state treasury in the account

maintained for medical, life insurance and disability benefits. If the board so elects, the spouses and unemancipated children under twenty-three years of age of the appointees or employees may participate in the program to cover medical expenses under the provisions of and subject to the payment requirements established pursuant to subsection 3 of section 104.515, RSMo.]

[622.010. DIVISION OF MOTOR CARRIER AND RAILROAD SAFETY ESTABLISHED — DIRECTOR, APPOINTMENT, POWERS AND DUTIES. DIVISION OF TRANSPORTATION TO BE KNOWN AS THE DIVISION OF MOTOR CARRIER AND RAILROAD SAFETY, WHEN — ESTABLISHED — DIRECTOR, APPOINTMENT, POWERS AND DUTIES. — A "Division of Motor Carrier and Railroad Safety" is hereby established within the department of economic development. The division shall be headed by a director, nominated by the department director and appointed by the governor with the advice and consent of the senate. The director shall be the chief administrative officer of the division.]

[622.010. DIVISION OF MOTOR CARRIER AND RAILROAD SAFETY ESTABLISHED — DIRECTOR, APPOINTMENT, POWERS AND DUTIES. DIVISION OF TRANSPORTATION TO BE KNOWN AS THE DIVISION OF MOTOR CARRIER AND RAILROAD SAFETY, WHEN — ESTABLISHED — DIRECTOR, APPOINTMENT, POWERS AND DUTIES. — A "Transportation Division" is hereby established within the department of economic development. Effective on July 1, 1997, the name "Transportation Division" shall be changed to the "Division of Motor Carrier and Railroad Safety". The division shall be headed by a director, nominated by the department director and appointed by the governor with the advice and consent of the senate. The director shall be the chief administrative officer of the division.]

[622.020. ADMINISTRATIVE LAW JUDGES, APPOINTMENT, TERMS, QUALIFICATIONS, PRIVATE LAW PRACTICE PROHIBITED — COMPENSATION, EXPENSES. — 1. Three administrative law judges shall also be appointed for the division. They shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. Each shall be appointed for a term of six years, except of those first appointed, one shall be appointed for a term of four years, and one for a term of two years. Each shall be an attorney-at-law admitted to practice before the supreme court of Missouri, and while serving in this capacity as an administrative law judge shall not otherwise practice law during his term of office. Not more than two of the administrative law judges shall be members of the same political party.

2. Administrative law judges shall be compensated at the same rate as administrative hearing commissioners are compensated, and they shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.]

[622.040. CASES PENDING PUBLIC SERVICE COMMISSION PRIOR TO JULY 1, 1985, EFFECT. — The provisions of sections 622.010 to 622.059 and 680.307, RSMo, shall not apply to any case presently pending before the Missouri public service commission in which any evidence has been submitted either to the public service commission or to the administrative law judge or hearing examiner; or to any pending case in which the public service commission has ordered an investigation into rate charges and the results of the investigation have been filed with the commission. In such cases the public service commission shall decide such cases under the procedures in effect prior to July 1, 1985.]

[622.045. ORGANIZATION OF DIVISION DUTY OF THE DIRECTOR OF ECONOMIC DEVELOPMENT. — The director of the department of economic development is expressly authorized to organize the division to accomplish the purposes set forth by the provisions of sections 622.010 to 622.059 and 680.307, RSMo, and within the limit of appropriations made therefor shall employ all necessary personnel to accomplish those purposes. Personnel previously employed by the public service commission may be transferred to this division.]

[622.050. ALL OTHER RESPONSIBILITIES OF THE PUBLIC SERVICE COMMISSION NOT AFFECTED. — Nothing herein shall be construed as limiting any power, authority, jurisdiction, duty or responsibility of the public service commission under chapter 386, RSMo, or any other statute as to the regulation of public utilities, utility safety and any other nontransportation matters remaining with the public service commission after July 1, 1985.]

[622.055. TRANSPORTATION DEVELOPMENT COMMISSION, ESTABLISHED, APPOINTMENT, QUALIFICATION, MEETINGS — ELECTION OF OFFICERS — EXPENSES. — 1. A "Transportation Development Commission" is hereby established. It shall consist of five senators appointed by the president pro tem of the senate, five representatives appointed by the speaker of the house of representatives, and five persons, not less than one of whom shall be an intrastate certificated carrier, not less than one of whom shall be associated with a railroad industry, and not less than one of whom shall be a shipper, appointed by the director of the department of economic development.

2. The commission shall meet and organize by electing one legislative member as chairman and another legislative member as vice chairman. The commission shall meet as often as necessary to carry out its duties at such places as may be convenient for this purpose.

3. Members shall not receive any compensation for the performance of their duties, but all shall be reimbursed for actual and necessary expenses incurred in the performance of those duties, the legislative members from the contingent funds of their respective houses, and the public members from funds appropriated to the department of economic development.]

[622.057. COMMISSION POWERS AND DUTIES. — The transportation development commission shall study the implementation of the provisions of sections 622.010 to 622.059 and section 680.307, RSMo, and shall make recommendations therefor to the motor carrier and railroad safety division and the department director. It shall also consider any other appropriate matter relating to the operation of the motor carrier and railroad safety division and the development and regulation of transportation activities within this state. It shall consider the need for new or changed laws or regulations relating to the development and regulation of transportation activities, and shall from time to time make recommendations to the governor and the general assembly in connection therewith to the end that the development of transportation entities and facilities will enhance the economic development of the state.]

[644.550. BONDS, PRINCIPAL AND INTEREST, HOW AND WHEN PAID — REPURCHASE WHEN. — All bonds herein authorized to be issued shall be paid at maturity and all interest accruing thereon shall be paid when it falls due by the state treasurer, at a place designated in the bonds and coupons attached. Thirty days before any of the bonds mature and any of the interest thereon falls due, it shall be the duty of the board of fund commissioners to draw its requisition for the amount necessary to pay such interest on the bonds and the principal of maturing bonds and the necessary expenses to be incurred in transmitting such moneys. Whereupon the commissioner of administration shall certify the amount to the state auditor and the state auditor shall issue his warrant upon the state treasurer therefor in favor of the president of the board of fund commissioners, payable out of the water pollution control bond and interest fund; and the warrant so drawn shall be delivered to the state treasurer who shall transmit the amount of money therein specified to the paying agent named in the bonds with instructions to place such money to the credit of the board of fund commissioners for the payment of interest or principal of such bonds. Whenever in the opinion of the board of fund commissioners it is advisable to do so, and there are sufficient funds therefor, the board may redeem any of the bonds before maturity if the holders thereof agree thereto, and may also purchase any of the bonds in the open market whenever funds are available and in the opinion of the board it is to the advantage of the state to do so; but, in the event any of the bonds are redeemed before maturity, the purchase price shall not exceed the face value of said bonds plus accrued interest not previously paid.]

[660.018. APPLICATION FOR WAIVERS. — The director of the department of social services shall apply to the United States Secretary of Health and Human Services for all waivers of requirements under federal law necessary to implement the provisions of section A of this act.]

SECTION B. CONTINGENT EFFECTIVE DATE. — The repeal and reenactment of sections 99.918, 99.1082, 135.205, 135.207, 135.230, 135.530, 135.903, 135.953, 215.263, and 620.1023 of section A of this act shall become effective on April 1, 2011, or when the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate period ends in zero becomes available, which first occurs. The commissioner of the office of administration shall notify the revisor of statutes when the updated United States Census Bureau data has been released.

Approved July 1, 2010

HB 1977 [HCS HB 1977]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding emergency services and emergency medical technicians-intermediate

AN ACT to repeal sections 190.060, 190.092, 190.133, 190.143, 190.196, 190.528, and 191.630, RSMo, and to enact in lieu thereof seven new sections relating to emergency medical technicians.

SECTION

- A. Enacting clause.
- 190.060. Powers of district.
- 190.092. Defibrillators, use authorized when, conditions, notice — good faith immunity from civil liability, when.
- 190.133. Emergency medical response agency license.
- 190.143. Temporary emergency medical technician license granted, when — limitations — expiration.
- 190.196. Employer to comply with requirements of licensure — report of charges filed against licensee, when.
- 190.528. License required — political subdivisions not precluded from governing operation of service or enforcing ordinances — responsibilities and restrictions on operation of stretcher van services — rules.
- 191.630. Definitions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 190.060, 190.092, 190.133, 190.143, 190.196, 190.528, and 191.630, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 190.060, 190.092, 190.133, 190.143, 190.196, 190.528, and 191.630, to read as follows:

190.060. POWERS OF DISTRICT. — 1. An ambulance district shall have the following governmental powers, and all other powers incidental, necessary, convenient or desirable to carry out and effectuate the express powers:

- (1) To establish and maintain an ambulance service within its corporate limits, and to acquire for, develop, expand, extend and improve such service;
 - (2) To acquire land in fee simple, rights in land and easements upon, over or across land and leasehold interests in land and tangible and intangible personal property used or useful for the location, establishment, maintenance, development, expansion, extension or improvement
-

of an ambulance service. The acquisition may be by dedication, purchase, gift, agreement, lease, use or adverse possession;

(3) To operate, maintain and manage the ambulance service, and to make and enter into contracts for the use, operation or management of and to provide rules and regulations for the operation, management or use of the ambulance service;

(4) To fix, charge and collect reasonable fees and compensation for the use of the ambulance service according to the rules and regulations prescribed by the board from time to time;

(5) To borrow money and to issue bonds, notes, certificates, or other evidences of indebtedness for the purpose of accomplishing any of its corporate purposes, subject to compliance with any condition or limitation set forth in sections 190.001 to 190.090 or otherwise provided by the Constitution of the state of Missouri;

(6) To employ or enter into contracts for the employment of any person, firm, or corporation, and for professional services, necessary or desirable for the accomplishment of the objects of the district or the proper administration, management, protection or control of its property;

(7) To maintain the ambulance service for the benefit of the inhabitants of the area comprising the district regardless of race, creed or color, and to adopt such reasonable rules and regulations as may be necessary to render the highest quality of emergency medical care; to exclude from the use of the ambulance service all persons who willfully disregard any of the rules and regulations so established; to extend the privileges and use of the ambulance service to persons residing outside the area of the district upon such terms and conditions as the board of directors prescribes by its rules and regulations;

(8) To provide for health, accident, disability and pension benefits for the salaried members of its organized ambulance district and such other benefits for the members' spouses and minor children, through either, or both, a contributory or noncontributory plan. The type and amount of such benefits shall be determined by the board of directors of the ambulance district within the level of available revenue of the pension program and other available revenue of the district. If an employee contributory plan is adopted, then at least one voting member of the board of trustees shall be a member of the ambulance district elected by the contributing members. The board of trustees shall not be the same as the board of directors;

(9) To purchase insurance indemnifying the district and its employees, officers, volunteers and directors against liability in rendering services incidental to the furnishing of ambulance services. Purchase of insurance pursuant to this section is not intended to waive sovereign immunity, official immunity or the Missouri public duty doctrine defenses; and

(10) To provide for life insurance, accident, sickness, health, disability, annuity, length of service, pension, retirement and other employee-type fringe benefits, subject to the provisions of section 70.615, RSMo, for the volunteer members of any organized ambulance district and such other benefits for their spouses and eligible unemancipated children, either through a contributory or noncontributory plan, or both. For purposes of this section, "eligible unemancipated child" means a natural or adopted child of an insured, or a stepchild of an insured who is domiciled with the insured, who is less than twenty-three years of age, who is not married, not employed on a full-time basis, not maintaining a separate residence except for full-time students in an accredited school or institution of higher learning, and who is dependent on parents or guardians for at least fifty percent of his or her support. The type and amount of such benefits shall be determined by the board of directors of the ambulance district within available revenues of the district, including the pension program of the district. The provision and receipt of such benefits shall not make the recipient an employee of the district. Directors who are also volunteer members may receive such benefits while serving as a director of the district.

2. The use of any ambulance service of a district shall be subject to the reasonable regulation and control of the district and upon such reasonable terms and conditions as shall be established by its board of directors.

3. A regulatory ordinance of a district adopted pursuant to any provision of this section may provide for a suspension or revocation of any rights or privileges within the control of the district for a violation of any regulatory ordinance.

4. Nothing in this section or in other provisions of sections 190.001 to 190.245 shall be construed to authorize the district or board to establish or enforce any regulation or rule in respect to the operation or maintenance of the ambulance service within its jurisdiction which is in conflict with any federal or state law or regulation applicable to the same subject matter.

5. After August 28, 1998, the board of directors of an ambulance district that proposes to contract for the total management and operation of the ambulance service, when that ambulance district has not previously contracted out for said service, shall hold a public hearing within a thirty-day period and shall make a finding that the proposed contract to manage and operate the ambulance service will:

- (1) Provide benefits to the public health that outweigh the associated costs;
- (2) Maintain or enhance public access to ambulance service;
- (3) Maintain or improve the public health and promote the continued development of the regional emergency medical services system.

6. (1) Upon a satisfactory finding following the public hearing in subsection 5 of this section and after a sixty-day period, the ambulance district may enter into the proposed contract, however said contract shall not be implemented for at least thirty days.

(2) The provisions of subsection 5 of this section shall not apply to contracts which were executed prior to August 28, 1998, or to the renewal or modification of such contracts or to the signing of a new contract with an ambulance service provider for services that were previously contracted out.

7. All ambulance districts authorized to adopt laws, ordinances, or regulations regarding basic life support ambulances shall require such ambulances to be equipped with an automated external defibrillator and be staffed by at least one individual trained in the use of an automated external defibrillator.

190.092. DEFIBRILLATORS, USE AUTHORIZED WHEN, CONDITIONS, NOTICE — GOOD FAITH IMMUNITY FROM CIVIL LIABILITY, WHEN. — 1. This section shall be known and may be cited as the "Public Access to Automated External Defibrillator Act".

2. A person or entity who acquires an automated external defibrillator shall ensure that:

(1) Expected defibrillator users receive training by the American Red Cross or American Heart Association in cardiopulmonary resuscitation and the use of automated external defibrillators, or an equivalent nationally recognized course in defibrillator use and cardiopulmonary resuscitation;

(2) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(3) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical services system as soon as possible; and

(4) Any person or entity that owns an automated external defibrillator that is for use outside of a health care facility shall have a physician review and approve the clinical protocol for the use of the defibrillator, review and advise regarding the training and skill maintenance of the intended users of the defibrillator and assure proper review of all situations when the defibrillator is used to render emergency care.

3. Any person or entity who acquires an automated external defibrillator shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the automated external defibrillator is to be located.

4. Any person who gratuitously and in good faith renders emergency care by use of or provision of an automated external defibrillator shall not be held liable for any civil damages as a result of such care or treatment, unless the person acts in a willful and wanton or reckless

manner in providing the care, advice, or assistance. The person or entity who provides appropriate training to the person using an automated external defibrillator, the person or entity responsible for the site where the automated external defibrillator is located, the person or entity that owns the automated external defibrillator, the person or entity that provided clinical protocol for automated external defibrillator sites or programs, and the licensed physician who reviews and approves the clinical protocol shall likewise not be held liable for civil damages resulting from the use of an automated external defibrillator. Nothing in this section shall affect any claims brought pursuant to chapter 537 or 538, RSMo.

5. All basic life support ambulances and stretcher vans operated in the state of Missouri shall be equipped with an automated external defibrillator and be staffed by at least one individual trained in the use of an automated external defibrillator.

6. The provisions of this section shall apply in all counties within the state and any city not within a county.

190.133. EMERGENCY MEDICAL RESPONSE AGENCY LICENSE. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an emergency medical response agency license.

2. The department shall issue a license to any emergency medical response agency which provides advanced life support if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical response agency including, but not limited to:

- (1) A licensure period of five years;
- (2) Medical direction;
- (3) Records and forms; and
- (4) Memorandum of understanding with local ambulance services.

3. Application for an emergency medical response agency license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical response agency meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. No person or entity shall hold itself out as an emergency medical response agency that provides advanced life support or provide the services of an emergency medical response agency that provides advanced life support unless such person or entity is licensed by the department.

[5. Only emergency medical response agencies, fire departments, and fire protection districts may provide certain ALS services with the services of EMT-Is.

6. Emergency medical response agencies functioning with the services of EMT-Is must work in collaboration with an ambulance service providing advanced life support with personnel trained to the emergency medical technician-paramedic level.]

190.143. TEMPORARY EMERGENCY MEDICAL TECHNICIAN LICENSE GRANTED, WHEN — LIMITATIONS — EXPIRATION. — 1. Notwithstanding any other provisions of law, the department may grant a ninety-day temporary emergency medical technician license to all levels of emergency medical technicians who meet the following:

- (1) Can demonstrate that they have, or will have, employment requiring an emergency medical technician license;
- (2) Are not currently licensed as an emergency medical technician in Missouri or have been licensed as an emergency medical technician in Missouri and fingerprints need to be submitted to the Federal Bureau of Investigation to verify the existence or absence of a criminal history, or they are currently licensed and the license will expire before a verification can be completed of the existence or absence of a criminal history;

(3) Have submitted a complete application upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245;

(4) Have not been disciplined pursuant to sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245;

(5) Meet all the requirements of rules promulgated pursuant to sections 190.001 to 190.245.

2. A temporary emergency medical technician license shall only authorize the license to practice while under the immediate supervision of a licensed emergency medical technician-basic, **emergency medical technician-intermediate**, emergency medical technician-paramedic, registered nurse or physician who is currently licensed, without restrictions, to practice in Missouri.

3. A temporary emergency medical technician license shall automatically expire either ninety days from the date of issuance or upon the issuance of a five-year emergency medical technician license.

190.196. EMPLOYER TO COMPLY WITH REQUIREMENTS OF LICENSURE — REPORT OF CHARGES FILED AGAINST LICENSEE, WHEN. — 1. No employer shall knowingly employ or permit any employee to perform any services for which a license, certificate or other authorization is required by sections 190.001 to 190.245, or by rules adopted pursuant to sections 190.001 to 190.245, unless and until the person so employed possesses all licenses, certificates or authorizations that are required.

2. Any person or entity that employs or supervises a person's activities as a first responder, emergency medical dispatcher, emergency medical technician-basic, **emergency medical technician-intermediate**, emergency medical technician-paramedic, registered nurse or physician shall cooperate with the department's efforts to monitor and enforce compliance by those individuals subject to the requirements of sections 190.001 to 190.245.

3. Any person or entity who employs individuals licensed by the department pursuant to sections 190.001 to 190.245 shall report to the department within seventy-two hours of their having knowledge of any charges filed against a licensee in their employ for possible criminal action involving the following felony offenses:

- (1) Child abuse or sexual abuse of a child;
- (2) Crimes of violence; or
- (3) Rape or sexual abuse.

4. Any licensee who has charges filed against him or her for the felony offenses in subsection 3 of this section shall report such an occurrence to the department within seventy-two hours of the charges being filed.

5. The department will monitor these reports for possible licensure action authorized pursuant to section 190.165.

190.528. LICENSE REQUIRED — POLITICAL SUBDIVISIONS NOT PRECLUDED FROM GOVERNING OPERATION OF SERVICE OR ENFORCING ORDINANCES — RESPONSIBILITIES AND RESTRICTIONS ON OPERATION OF STRETCHER VAN SERVICES — RULES. — 1. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of passengers by stretcher van upon the streets, alleys, or any public way or place of the state of Missouri unless such person holds a currently valid license from the department for a stretcher van service issued pursuant to the provisions of sections 190.525 to 190.537 notwithstanding any provisions of chapter 390 or 622, RSMo, to the contrary.

2. Subsection 1 of this section shall not preclude any political subdivision that is authorized to operate a licensed ambulance service from adopting any law, ordinance or regulation governing the operation of stretcher vans that is at least as strict as the minimum state standards, and no such regulations or ordinances shall prohibit stretcher van services that were legally picking up passengers within a political subdivision prior to January 1, 2002, from continuing

to operate within that political subdivision and no political subdivision which did not regulate or prohibit stretcher van services as of January 1, 2002, shall implement unreasonable regulations or ordinances to prevent the establishment and operation of such services.

3. In any county with a charter form of government and with more than one million inhabitants, the governing body of the county shall set reasonable standards for all stretcher van services which shall comply with subsection 2 of this section. All such stretcher van services must be licensed by the department. The governing body of such county shall not prohibit a licensed stretcher van service from operating in the county, as long as the stretcher van service meets county standards.

4. Nothing shall preclude the enforcement of any laws, ordinances or regulations of any political subdivision authorized to operate a licensed ambulance service that were in effect prior to August 28, 2001.

5. Stretcher van services may transport passengers.

6. (1) A stretcher van shall be staffed by at least two individuals when transporting passengers.

(2) **All stretcher vans shall be equipped with an automated external defibrillator and shall be staffed by at least one individual who is trained in the use of an automated external defibrillator.**

(3) **Any political subdivision that is authorized to operate a licensed ambulance service shall adopt a law, ordinance or regulation for stretcher vans that is at least as strict as the minimum requirements in subdivision (2) of this subsection regarding automated external defibrillators.**

7. The crew of the stretcher van is required to immediately contact the appropriate ground ambulance service if a passenger's condition deteriorates.

8. Stretcher van services shall not transport patients, persons currently admitted to a hospital or persons being transported to a hospital for admission or emergency treatment.

9. The department of health and senior services shall promulgate regulations, including but not limited to adequate insurance, on-board equipment, vehicle staffing, vehicle maintenance, vehicle specifications, vehicle communications, passenger safety and records and reports.

10. The department of health and senior services shall issue service licenses for a period of no more than five years for each service meeting the established rules.

11. Application for a stretcher van license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.525 to 190.537. The application form shall contain such information as the department deems necessary to make a determination as to whether the stretcher van agency meets all the requirements of sections 190.525 to 190.537 and rules promulgated pursuant to sections 190.525 to 190.537. The department shall conduct an inspection of the stretcher van service to verify compliance with the licensure standards of sections 190.525 to 190.537.

12. Upon the sale or transfer of any stretcher van service ownership, the owner of the stretcher van service shall notify the department of the change in ownership within thirty days prior to the sale or transfer. The department shall conduct an inspection of the stretcher van service to verify compliance with the licensure standards of sections 190.525 to 190.537.

13. Ambulance services licensed pursuant to this chapter or any rules promulgated by the department of health and senior services pursuant to this chapter may provide stretcher van and wheelchair transportation services pursuant to sections 190.525 to 190.537.

14. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the

grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

191.630. DEFINITIONS. — As used in sections 191.630 and 191.631, the following terms mean:

- (1) "Care provider", a person who is employed as an emergency medical care provider, firefighter, or police officer;
- (2) "Contagious or infectious disease", hepatitis in any form and any other communicable disease as defined in section 192.800, RSMo, except AIDS or HIV infection as defined in section 191.650, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department, in accordance with guidelines of the Centers for Disease Control and Prevention of the Department of Health and Human Services;
- (3) "Department", the Missouri department of health and senior services;
- (4) "Emergency medical care provider", a licensed or certified person trained to provide emergency and nonemergency medical care as a first responder, EMT-B, **EMT-I**, or EMT-P as defined in section 190.100, RSMo, or other certification or licensure levels adopted by rule of the department;
- (5) "Exposure", a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties;
- (6) "HIV", the same meaning as defined in section 191.650;
- (7) "Hospital", the same meaning as defined in section 197.020, RSMo.

Approved July 13, 2010

HB 2056 [HB 2056]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires a lien on real estate that is obtained based on a judgment or order for unpaid child support or maintenance to state only the last four digits of the obligor's Social Security number

AN ACT to repeal section 454.515, RSMo, and to enact in lieu thereof one new section relating to liens for failure to pay maintenance and support.

SECTION

A. Enacting clause.

454.515. Order for child support, lien on real estate, when, procedure — duration, priority, revival, release, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 454.515, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 454.515, to read as follows:

454.515. ORDER FOR CHILD SUPPORT, LIEN ON REAL ESTATE, WHEN, PROCEDURE — DURATION, PRIORITY, REVIVAL, RELEASE, WHEN. — 1. A judgment or order for child support or maintenance payable in periodic installments shall not be a lien on the real estate of the person against whom the judgment or order is rendered until the person entitled to receive payments pursuant to the judgment or order, the division or IV-D agency files a lien and the lien is recorded in the office of the circuit clerk of any county in this state in which such real estate is

situated in the manner provided for by the supreme court and chapter 511, RSMo. Thereafter, the judgment shall become a lien on all real property of the obligor in such county, owned by the obligor at the time, or which the obligor may acquire afterwards and before the lien expires.

2. Liens pursuant to this section shall commence on the day filed and shall continue for a period of three years. A judgment creditor, the division or IV-D agency may revive a lien by filing another lien on or before each three-year anniversary of the original judgment. At the time each lien is revived, all unpaid installments shall remain a lien for the subsequent three-year period.

3. The lien shall state the name, last known address of the obligor, the **last four digits of the** obligor's Social Security number, the obligor's date of birth, if known, and the amount of support or maintenance due and unpaid.

4. A copy of the lien shall be mailed by the person entitled to receive payments under the judgment or order, the division or IV-D agency to the last known address of the obligor.

5. The person entitled to receive payments pursuant to the judgment or order, the division or IV-D agency may execute a partial or total release of the liens created by this section, either generally or as to specific property.

Approved June 23, 2010

HB 2058 [SS SCS HCS HB 2058]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes procedures for asserting a mechanic's lien against certain residential real property

AN ACT to amend chapter 429, RSMo, by adding thereto one new section relating to mechanic's liens, with penalty provisions.

SECTION

- A. Enacting clause.
- 429.016. Residential real property — recording required, procedure — failure to record, effect of — -form of notice — separate notice required, when — release of lien, procedure — waiver, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 429, RSMo, is amended by adding thereto one new section, to be known as section 429.016, to read as follows:

429.016. RESIDENTIAL REAL PROPERTY — RECORDING REQUIRED, PROCEDURE — FAILURE TO RECORD, EFFECT OF — -FORM OF NOTICE — SEPARATE NOTICE REQUIRED, WHEN — RELEASE OF LIEN, PROCEDURE — WAIVER, WHEN. — 1. The provisions of this section shall only apply to mechanic's liens asserted against residential real property, other than mechanic's liens for the repair, remodeling, or addition to owner-occupied residential property of four units or less which are governed by section 429.013 and other applicable sections of this chapter.

2. As used in this section, the term "residential real property" means any parcel of real estate, improved or unimproved, that is intended to be used or is used for the construction of residential structures and related improvements which support the residential use of the land where such residential structures are intended, upon completion, either to be occupied or sold by the current owner. Such residential

structures shall include any residential dwelling of four units or less, whether or not a unit is occupied by an owner and shall also include any structures consisting solely of residential condominiums, townhouses or cooperatives regardless of the number of units. The definition of "residential real estate" shall exclude any mixed use or planned unit developments except to the extent that any residential uses of such developments are, or will be, located on separate, identifiable parcels from the non-residential uses and then only as to those residential uses. Residential real property shall also include any streets, sidewalks, utility services, improved common areas, or other facilities which are constructed within the defined residential use structures or located on or within the separate and identifiable parcels identified as for residential use.

3. Any person or entity, hereinafter referred to as claimant, who seeks to retain the right to assert a mechanic's lien against residential real property, hereinafter referred to as property, shall record a notice of rights in the office of the recorder of deeds for the county in which the property is located, not less than five calendar days prior to the intended date of closing stated in a notice of intended sale as contemplated in this section.

4. Notwithstanding subsection 3 of this section, a claimant that is accurately identified in any previously recorded notice of rights recorded as to the property is relieved of its duty to record a notice of rights.

5. If the last day to record the notice of rights falls on a Saturday, Sunday, or legal holiday recognized by the state of Missouri, the notice of rights shall be recorded not later than the next day that the office of the recorder of deeds is open for business.

6. Any claimant that fails to record such notice of rights shall be deemed to waive and forfeit any right to assert a mechanic's lien against such property. Despite any such waiver and forfeiture of mechanic's lien rights, the claimant shall retain all other rights and remedies allowed by law to collect payment for its work, labor, and materials.

7. Notwithstanding any other provision of this section, a notice of rights recorded after the owner's conveyance of the property to a bona fide purchaser for value shall not be effective to preserve the claimant's mechanic's lien rights to the property.

8. The notice of rights shall comply with section 59.310 and be on a form substantially as follows:

NOTICE OF RIGHTS

Date: The date of the document.

Owner: Identify Property owner, as "Grantor" by correct name.

Claimant: Identify Claimant, as "Grantee" by correct name, current address, contact persons, and current telephone number.

Property: The legal description of the property.

Person Contracting with Claimant for Work: Identify person or entity contracting with Claimant by correct name, current address, and current telephone number.

Persons performing work for or supplying materials to Claimant: Claimant may, but is not obligated to, identify any persons or entities which have or will be performing work or supplying materials on behalf of Claimant for the Property. Said persons or entities must be identified by correct legal name, address, and current telephone number.

A recorded notice correctly identifies a person or entity so long as the identifying information in the notice is neither deceptively similar to another person or entity reasonably likely to provide labor, materials, supplies, or equipment for the improvement of property nor so deficient in information as to make it unreasonably difficult to identify such person or entity. The form shall be signed by a person authorized to execute the form on behalf of the claimant, and such signature shall be notarized. The name of the person signing the form shall be printed legibly or typed immediately below the signature.

9. The notice of rights shall be recorded by the claimant in the office of the recorder of deeds of the county in which the property is located.

10. The recorder of deeds shall record such notice of rights in the land records and index notice of rights such that owners shall be deemed grantors and claimants shall be deemed grantees, and the grantor's signature shall not be required for recording.

11. (1) If the record title owner of residential real property, hereinafter the owner, has contracted with a claimant for the performance or provision of work, labor, or materials for the improvement of such property in order to facilitate the owner's sale of such property to a bona fide purchaser for value as contemplated in this section, then the owner or such owner's designated agent, shall record a notice of intended sale in the office of the recorder of deeds for the county in which the property is located. The notice of intended sale shall be recorded not less than forty-five calendar days prior to the earliest calendar date the owner intends to close on the sale of such property to such purchaser. The notice of intended sale shall state the calendar date on which the owner intends to close on the sale of such property to such purchaser. Only one notice of intended sale shall be recorded, even if the intended date of closing stated therein is postponed to a date later than that stated in the notice of intended sale. The owner's, or its designated agent's, recording of a notice of intended sale as to the subject property, as contemplated herein, is a condition precedent to a claimant's obligation to record a notice of rights as to the subject property in order to retain a claimant's mechanics lien rights as to such property.

(2) The owner, or its designated agent, shall post on the subject property, or at an entrance to the subject property, or at any jobsite office located at or near the subject property, a copy of the owner's notice of intended sale.

(3) The owner, or its designated agent, shall provide any claimant with a copy of the notice of intended sale and a copy of a legal description of the subject property, within five calendar days after the date the owner, or its designated agent, receives a written request for the same from any such claimant. The information contemplated herein shall be transmitted by U.S. mail addressed to the claimant's registered agent or principal place of business or transmitted by other commercially reasonable means. A claimant shall, in turn, provide any person or entity with which it has contracted to perform or provide work, labor, or materials for the improvement of the subject property, with written notice in the same form and manner, and containing the same information, as the written notice issued by the owner, all within ten calendar days after the date the claimant receives a written request for the same from any such person or entity.

(4) If any owner, or its designated agent, fails to comply with the requirements of this section, a claimant shall be entitled to receive, as its sole and exclusive remedy for such failure to comply with the section, the claimant's actual and reasonable costs, excluding attorney fees, to obtain a legal description of the subject property necessary for the claimant to record its notice of rights. The costs described in this section shall be lienable expenses. The owner's, or its designated agent's failure to post or mail or transmit the information contemplated in this section, shall not relieve, and is not a condition precedent to, a claimant's obligation to record its notice of right in order to retain claimant's mechanic lien rights as to such property.

(5) The owner, or its designated agent, shall not be liable to any claimant, or other person, for any error, omission, or inaccuracy in the content of the information provided and disclosed by the owner, or its designated agent, except as otherwise expressly provided in this section. If a claimant receives a copy of the notice of intended sale and a legal description of the subject property from the owner, or its designated agent as contemplated in this section and the claimant relies in good faith upon the legal description and includes such legal description in a notice of rights as required in this section, and the claimant's notice of rights otherwise complies with the requirements of this section, then any such claimant's notice of rights shall be deemed to comply with the

requirements of this section, and such claimant's right to assert a mechanic's lien as to the subject residential real property shall be retained even if subsequently it is determined that such legal description is in error or inaccurate as to the subject residential real property.

12. The recording of a notice of rights shall not extend the time for filing a mechanic's lien as provided under section 429.080.

13. A separate notice of rights shall be recorded for each lot or parcel of residential real property upon which the claimant performs its work. Nothing herein shall be construed to prohibit the claimant from providing a notice of rights covering multiple lots in the same subdivision if common ownership of lots exists. If the claimant commences its work prior to the platting or subdivision of a tract of land comprising residential real property, the claimant is only required to record one notice of rights provided that the entire tract of land upon which any such lien is to be asserted is described in such notice of rights.

14. The claimant shall not be required to provide the notice required under section 429.100, but compliance with the requirements of this section shall not relieve the claimant of its duty to comply with all other applicable sections of this chapter, except as specifically modified herein, in order to preserve, assert, and enforce its mechanic's lien rights.

15. For purposes of any mechanic's liens against residential real property only, a claimant satisfies the just and true account requirement contained in section 429.080 by providing the following information and documentation as part of its mechanic's lien claim filed with the clerk of the circuit court:

(1) A photocopy of the file-stamped notice of rights and any renewals of notice of rights recorded by or identifying claimant;

(2) The name and address of the person or entity which claimant contracted with to perform work on the property;

(3) A copy of any contract or contracts, purchase order or orders, or proposal or proposals, hereinafter collectively referred to as agreements, and any agreed change orders or modifications to such agreement or agreements under which claimant performed its work on the property;

(4) In the absence of any written agreement or agreements, a general description of the scope of work agreed to be performed by claimant on the property and the basis for payment for such work as agreed to by claimant and the contracting party;

(5) All invoices submitted by claimant for its work on the property;

(6) An accurate statement of account which shows all payments or credits against amounts otherwise due to claimant for the work performed on the property and the calculation or basis for the amount claimed by claimant in its mechanic's lien statement; and

(7) The last date that claimant performed any work or labor upon, or provided any materials or equipment to, the property;

(8) The claimant shall attach a file-stamped copy of his or her notice of rights to claimant's mechanic's lien statement if and when filed with the circuit clerk under section 429.080.

16. To the extent that any error in the information contained in the claimant's notice of rights prejudices the owner, any lender, disbursing company, title insurance company, or subsequent purchaser of the property, the claimant's rights to assert a mechanic's lien shall be forfeited to the extent of the prejudice caused by such error.

17. A person having an interest in any residential real property against which a mechanic's lien has been filed may release such residential real property from any such mechanic's lien by:

(1) Depositing in the office of the circuit clerk a sum of money, in cash or certified check, an irrevocable letter of credit, which may be secured, issued by a federally or state chartered bank, savings and loan association or savings bank, referred to hereafter as a

bank, authorized to and doing business in the state of Missouri, or a surety bond issued by a surety company authorized to do surety business in the state of Missouri and having a certificate of authority to do business with the United States government in accordance with 31 CFR Section 223.1, in an amount not less than one hundred fifty percent of the amount of the mechanic's lien being released; and

(2) Recording with the recorder of deeds and filing with the circuit clerk a certificate of deposit signed by the circuit clerk which provides the following information:

(a) Amount of money deposited, amount of the letter of credit deposited, or penal sum of the bond deposited, along with the name and address of the bank issuing the letter of credit or surety company issuing the bond, as well as a service address for the bank or surety company;

(b) Name of claimant, number assigned to the mechanic's lien being released, and the amount of the mechanic's lien being released;

(c) Legal description of the property against which the mechanic's lien was filed;

(d) Name, address, and property interest of the person making the deposit of money, providing the letter of credit or providing the surety bond; and

(e) A certification by the person making the deposit of money, providing the letter of credit, or providing the surety bond that they have mailed a copy of the certificate of deposit to the claimant at the address listed on the mechanic's lien being released, along with a copy of any letter of credit or bond deposited by said person.

18. Any surety bond deposited as substitute collateral shall obligate the surety company, to the extent of the penal sum of the bond, to pay any judgment entered under section 429.210.

19. Any letter of credit deposited as substitute collateral shall obligate the issuing bank, to the extent of the amount of the letter of credit, to pay any judgment entered under section 429.210.

20. Upon release of the residential real property from a mechanic's lien by the deposit of substitute collateral, the claimant's rights are transferred from the residential real property to the substitute collateral.

21. Upon determination of the amount of claimant's claim, if any, against the substitute collateral, the court shall either:

(1) Order the circuit clerk to pay the claimant any sums awarded out of the deposited funds and release any remainder to the person or entity who made the cash deposit;

(2) Order the bank to issue payment under the letter of credit for the awarded amount but not exceeding the amount of the letter of credit;

(3) Render judgment against the surety company on the bond for the amount awarded up to but not exceeding the penal sum of the bond; or

(4) Release the substitute collateral

all as deemed appropriate by the court.

22. The deposit of substitute collateral and release of claimant's mechanic's lien shall not modify any aspect of the priority of claimant's interest, claimant's burden of proving compliance with the mechanic's lien statutes, or claimant's obligations with respect to enforcement of its mechanic's lien claim, including, but not limited to, time for filing suit to enforce and necessary parties to the suit to enforce. It is the intent only that the deposited substitute collateral shall be the ultimate source of any potential recovery by claimant instead of the funds generated by foreclosure of the residential real property.

23. A release of a mechanic's lien under the deposit of substitute collateral shall not relieve any claimant of potential liability for slander of title or otherwise due to the filing of claimant's mechanic's lien.

24. The surety company for any bond or the bank which issued the letter of credit deposited under this section shall be made a party to any mechanic's lien enforcement

action with respect to any mechanic's lien released by the deposit of said bond or letter of credit.

25. Any claimant may waive its right to assert a mechanic's lien against residential real property by executing a partial or full waiver of mechanic's lien rights, whether conditioned upon receipt of payment or unconditional, provided that a waiver of mechanic's lien rights shall not be deemed or interpreted to waive or release mechanic's lien rights in exchange for a payment of less than the amount claimed due at that time unless such mechanic's lien waiver is an unconditional, final mechanic's lien waiver in compliance with this section.

26. An unconditional, final lien waiver is a complete and absolute waiver of any mechanic's lien rights against the residential real property described in the mechanic's lien waiver, including any rights which might otherwise arise from remedial or additional labor, services, or materials provided to the residential real property, or which might benefit the residential real property, under either an initial agreement or a supplemental agreement entered into by the same parties prior to the execution of the unconditional, final mechanic's lien waiver.

27. An unconditional, final mechanic's lien waiver shall only be valid if it is on a form that is substantially as follows:

UNCONDITIONAL FINAL LIEN WAIVER FOR RESIDENTIAL REAL PROPERTY

Claimant (provide legal name and address of Claimant) hereby fully, finally, and unconditionally waives and releases any right to assert or enforce a mechanic's lien claim against the residential real property identified below for all work performed by Claimant prior to the date set forth below and for any work hereafter performed by or on behalf of Claimant under any agreements executed by Claimant prior to said date set forth below:

(Provide legal description of the Property)

Claimant's legal name and the name, title or position, address, and telephone number of the person executing the unconditional final lien waiver on behalf of claimant shall be typed or legibly printed immediately above or below the signature, and the date that the document was signed shall be typed or legibly printed immediately adjacent to the signature.

28. A claimant executing an unconditional, final mechanic's lien waiver for less than full consideration shall be bound by such mechanic's lien waiver as it relates to any rights to assert a mechanic's lien against the property, but such mechanic's lien waiver shall not constitute a waiver or release of any other claim, remedy, or cause of action.

29. An unconditional, final mechanic's lien waiver meeting the requirements of this section is valid and enforceable as to claimant's mechanic's lien rights as to the property identified on the unconditional, final mechanic's lien waiver notwithstanding claimant's failure to receive any promised payment or other consideration.

30. Any claimant who has recorded a notice of rights and who has been paid in full for the work performed on the property shall timely execute an unconditional, final mechanic's lien waiver, shall not unreasonably withhold such a waiver when circumstances require prompt execution, and in no event shall fail to provide a waiver any later than five calendar days after claimant's receipt of a written request to do so by any person or entity. A claimant who fails or refuses timely to execute an unconditional, final lien waiver when such claimant has been paid in full for any labor, materials, services, or equipment supplied or used in the improvement to the property shall be presumed liable

for slander of title and for any damages sustained as a result thereof, together with a statutory penalty of five hundred dollars.

31. The provisions of this section shall apply to any residential real property conveyance closing on or after November 1, 2010.

Approved July 12, 2010

HB 2070 [CCS HCS HB 2070]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding joint central fire and emergency dispatching services taxes

AN ACT to repeal sections 321.243 and 650.399, RSMo, and to enact in lieu thereof two new sections relating to taxes for joint central fire and emergency dispatching services.

SECTION

- A. Enacting clause.
- 321.243. Tax authorized for dispatching center and equipment and services in a certain county — requirements — funds, payment from — board of directors, members, qualifications — St. Charles County, special board, powers — Jefferson County, tax authorized.
- 650.399. Tax levied, vote required, ballot language — effective date — fund created, use of moneys.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 321.243 and 650.399, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 321.243 and 650.399, to read as follows:

321.243. TAX AUTHORIZED FOR DISPATCHING CENTER AND EQUIPMENT AND SERVICES IN A CERTAIN COUNTY — REQUIREMENTS — FUNDS, PAYMENT FROM — BOARD OF DIRECTORS, MEMBERS, QUALIFICATIONS — ST. CHARLES COUNTY, SPECIAL BOARD, POWERS — JEFFERSON COUNTY, TAX AUTHORIZED. — 1. Notwithstanding any other provision of law to the contrary, an additional tax of not to exceed three cents per one hundred dollars of assessed valuation may be levied and collected by any city, town, village, county, or fire protection district, or a central fire and emergency services board established in subsection 4 of this section. All the funds derived from such tax, **including any existing surplus funds**, shall be used [solely] for the purpose of establishing and providing a joint central fire and emergency dispatching service[, and, in any county with a charter form of government and with more than one million inhabitants,] **and** for expenditures for equipment and services, except for salaries, wages, and benefits, by cities, towns, villages, counties, or fire protection districts which contract with such joint central fire and emergency dispatching service.

2. The additional tax prescribed by this section shall be levied only when the governing body of the city, town, village, county, fire protection district, or central fire and emergency services board determines that a central fire and emergency dispatching center will meet the minimum requirements set by section 321.245, and, except where a central fire and emergency services board is established in accordance with subsection 4 of this section, when the governing body has entered into a contract with the center for fire and emergency dispatching services. The funds from the tax shall be kept separate and apart from all other funds of the city, town, village, county, fire protection district, or central fire and emergency services board and shall be paid out only on order of the governing body. Except as provided in subsection 4 of this section, all funds

received by such center, and all operations of such center shall be governed and controlled by a board of directors consisting of one member from each such agency using the joint central fire and emergency dispatching service. Except as otherwise provided in subsection 4 of this section, in any county, city, town, or village, where a tax-supported fire protection district is provided emergency dispatching services by any form of joint communication organization or emergency dispatching center, receiving directly or indirectly any funds so levied and collected as provided in this section including any funds or tariffs paid by telephone subscribers for 911 emergency service, such joint communication organization, however organized, shall be governed by a board of directors, and the board of directors shall consist in part of one member appointed by each county, city, town, village or tax-supported fire protection district, so served. The members shall be an elected official of a fire protection district, ambulance district or city council appointed by each such agency to serve for a one-year term or until a successor is duly appointed.

3. In addition to the tax prescribed by subsections 1 and 2 of this section, an additional tax of not to exceed two cents per one hundred dollars of assessed valuation which has been approved by the voters may be levied and collected by any city, town, village, county, or fire protection district, or a central fire and emergency services board established in subsection 4 of this section of a county of the first classification with a charter form of government which has a population between two hundred thousand and five hundred thousand inhabitants, but all of the funds derived from such tax shall be used solely for the purpose of establishing and providing a joint central fire and emergency dispatching service.

4. A central fire and emergency services board shall be established in any county of the first classification with a charter form of government which has a population between two hundred thousand and five hundred thousand inhabitants in the manner prescribed in this subsection. The board shall have all powers and duties prescribed in this section and section 321.245 to establish and provide a joint central fire and emergency dispatching service. The initial board shall be established at the April, 1996, election. The election authority shall be ordered to conduct such election, which shall be conducted as a nonpartisan election. The board shall consist of one member elected from each county council district. All board members shall serve for four-year terms, except that of the initial members elected, the members elected from odd-numbered county council districts shall serve for terms of two years and the members elected from even-numbered county council districts shall serve for terms of four years. Each member shall be a resident of the county council district from which the member is elected. No person who is a paid employee of any fire protection district, ambulance district, joint central fire and emergency dispatch board, or a paid employee of a fire or ambulance department of a municipality shall be elected to the joint central fire and emergency dispatch board. At such election, the election authority of the county shall submit to the qualified voters of the county a proposal for the board to levy and collect the taxes prescribed in this section, and such tax shall be conditioned on the replacement of the tax levied in such county by the county under this section with the new tax levied by the board. A portion of the funds derived from the tax levied pursuant to this subsection shall be used to reimburse the county for the cost of the election held in April, 1996, and any subsequent elections that are necessary for the operation of the board and the board's duties. In addition, if such a tax is approved, any funds remaining in the separate fund kept by the county, as required by subsection 2 of this section, and any property and equipment purchased with moneys in such separate fund held by the county shall be transferred to the fund maintained by the board for the same purpose. The board shall abide by section 50.660, RSMo, in the letting of contracts. The board shall be audited by the state auditor pursuant to section 29.230, RSMo. Except as otherwise provided in this subsection, the board shall meet as established in the bylaws. Any other meeting may be called by four of the seven members voting in favor of having an additional meeting.

5. Any fire protection district in any county with a charter form of government and with more than one hundred ninety-eight thousand but fewer than one hundred ninety-nine thousand two hundred inhabitants that has levied any tax under this section and has

levied and imposed any communications tax for central fire and emergency dispatching services may submit a proposal to the voters of the fire protection district to use the revenue derived from the tax imposed under this section for general revenue purposes. No revenues derived from any such tax imposed under this section shall be used for any purpose other than the stated purpose unless and until such proposal to use the revenue for general revenue purposes has been submitted to and approved by the voters of the fire protection district in the same manner as other proposals are submitted to and approved by the voters of the fire protection district.

650.399. TAX LEVIED, VOTE REQUIRED, BALLOT LANGUAGE — EFFECTIVE DATE — FUND CREATED, USE OF MONEYS. — 1. The board of commissioners may, by a majority vote of its members, request that the governing body of the county submit to the qualified voters of such county at a general, primary or special election either of the questions contained in subsection 2 of this section. The governing body may approve or deny such request. The governing body may also vote to submit such question without a request of the board of commissioners. The county election official shall give legal notice of the election pursuant to chapter 115, RSMo.

2. The questions shall be put in substantially the following form:

(1) "Shall (name of county) establish an emergency communications system fund to establish (and/or) maintain an emergency communications system, and for which the county shall levy a tax of (insert exact amount, not to exceed six cents) per each one hundred dollars assessed valuation therefor, to be paid into the fund for that purpose?"

☐ YES

☐ NO; or

(2) "Shall (name of county) establish an emergency communications system fund to establish (and/or) maintain an emergency communications system, and for which the county shall levy a sales tax of (insert exact amount, not to exceed one-tenth of one percent), to be paid into the fund for that purpose?"

☐ YES

☐ NO

3. The election shall be conducted and vote canvassed in the same manner as other county elections. If the majority of the qualified voters voting thereon vote in favor of such tax, then the county shall levy such tax in the specified amount, beginning in the tax year immediately following its approval. The tax so levied shall be collected along with other county taxes in the manner provided by law. If the majority of the qualified voters voting thereon vote against such tax, then such tax shall not be imposed unless such tax is resubmitted to the voters and a majority of the qualified voters voting thereon approve such tax.

4. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question authorizing a sales tax, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. Any sales tax levied under this section shall apply to all retail sales made within the county which are subject to sales tax under chapter 144, except sales of food as defined in section 144.014. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question authorizing the sales tax, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question, but no question shall be resubmitted under this section sooner than twelve months from the date of the last question submitted to and opposed by the voters under this section.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed under this section.

6. All revenue collected under this section by the director of the department of revenue on behalf of any county, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust

fund, which is hereby created and shall be known as the "County Emergency Communications Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the fund and credited to the county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such county. Any funds in the special fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the fund during the preceding month by distributing the sum due the county as certified by the director of revenue to the county treasurer, or such other officer as may be designated by the county ordinance or order, of each county imposing the tax authorized by this section.

7. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the county shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director shall remit the balance in the account to the county and close the account of that county. The director shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

Approved July 1, 2010

HB 2081 [HCS HB 2081]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies that a pregnant woman may use deadly force if she reasonably believes that deadly force is necessary to protect her unborn child against death, serious physical injury, or any forcible felony

AN ACT to repeal section 563.031, RSMo, and to enact in lieu thereof one new section relating to the use of force by a pregnant woman to defend her unborn child.

SECTION

A. Enacting clause.

563.031. Use of force in defense of persons.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 563.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 563.031, to read as follows:

563.031. USE OF FORCE IN DEFENSE OF PERSONS. — 1. A person may, subject to the provisions of subsection 2 of this section, use physical force upon another person when and to the extent he or she reasonably believes such force to be necessary to defend himself or herself

or a third person from what he or she reasonably believes to be the use or imminent use of unlawful force by such other person, unless:

(1) The actor was the initial aggressor; except that in such case his or her use of force is nevertheless justifiable provided:

(a) He or she has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened use of unlawful force; or

(b) He or she is a law enforcement officer and as such is an aggressor pursuant to section 563.046; or

(c) The aggressor is justified under some other provision of this chapter or other provision of law;

(2) Under the circumstances as the actor reasonably believes them to be, the person whom he or she seeks to protect would not be justified in using such protective force;

(3) The actor was attempting to commit, committing, or escaping after the commission of a forcible felony.

2. A person may not use deadly force upon another person under the circumstances specified in subsection 1 of this section unless:

(1) He or she reasonably believes that such deadly force is necessary to protect himself, or herself **or her unborn child**, or another against death, serious physical injury, or any forcible felony; or

(2) Such force is used against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter a dwelling, residence, or vehicle lawfully occupied by such person.

3. A person does not have a duty to retreat from a dwelling, residence, or vehicle where the person is not unlawfully entering or unlawfully remaining.

4. The justification afforded by this section extends to the use of physical restraint as protective force provided that the actor takes all reasonable measures to terminate the restraint as soon as it is reasonable to do so.

5. The defendant shall have the burden of injecting the issue of justification under this section.

Approved June 25, 2010

HB 2147 [HCS HB 2147 & 2261]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Exempts certain students who are dependents of recently retired military personnel from the three-year attendance at a state school requirement for eligibility for a grant under the A+ Schools Program

AN ACT to repeal section 160.545, RSMo, and to enact in lieu thereof one new section relating to the A+ schools program.

SECTION

A. Enacting clause.

160.545. A+ school program established — purpose — rules — variable fund match requirement — waiver of rules and regulations, requirement — reimbursement for higher education costs for students — evaluation — reimbursement for two-year schools.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 160.545, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.545, to read as follows:

160.545. A+ SCHOOL PROGRAM ESTABLISHED — PURPOSE — RULES — VARIABLE FUND MATCH REQUIREMENT — WAIVER OF RULES AND REGULATIONS, REQUIREMENT — REIMBURSEMENT FOR HIGHER EDUCATION COSTS FOR STUDENTS — EVALUATION — REIMBURSEMENT FOR TWO-YEAR SCHOOLS. — 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

- (1) All students be graduated from school;
- (2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and
- (3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high-wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

- (1) Establish measurable districtwide performance standards for the goals of the program outlined in subsection 1 of this section; and

- (2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and

- (3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and

- (4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and

- (5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. A school district may participate in the program irrespective of its accreditation classification by the state board of education, provided it meets all other requirements.

4. By rule and regulation, the state board of education may determine a local school district variable fund match requirement in order for a school or schools in the district to receive a grant under the program. However, no school in any district shall receive a grant under the program unless the district designates a salaried employee to serve as the program coordinator, with the district assuming a minimum of one-half the cost of the salary and other benefits provided to the coordinator. Further, no school in any district shall receive a grant under the program unless the district makes available facilities and services for adult literacy training as specified by rule of the state board of education.

5. For any school that meets the requirements for the approval of the grants authorized by this section and specified in subsection 2 of this section for three successive school years, by August first following the third such school year, the commissioner of education shall present

a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services in the school. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, except such waivers shall be confined to the school and not other schools in the school district unless such other schools meet the requirements of this subsection. However, any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the requirements for the approval of the grants authorized by this section as specified in subsection 2 of this section.

6. For any school year, grants authorized by subsections 1 to 3 of this section shall be funded with the amount appropriated for this program, less those funds necessary to reimburse eligible students pursuant to subsection 7 of this section.

7. The commissioner of education shall, by rule and regulation of the state board of education and with the advice of the coordinating board for higher education, establish a procedure for the reimbursement of the cost of tuition, books and fees to any public community college or vocational or technical school or within the limits established in subsection 9 of this section for any two-year private vocational or technical school for any student:

(1) Who has attended a public high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section, except that students who are active duty military dependents, **and students who are dependants of retired military who relocate to Missouri within one year of the date of the parents retirement from active duty**, who, in the school year immediately preceding graduation, meet all other requirements of this subsection and are attending a school that meets the requirements of subsection 2 of this section shall be exempt from the three-year attendance requirement of this subdivision; and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the state board of education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of said board.

8. The commissioner of education shall develop a procedure for evaluating the effectiveness of the program described in this section. Such evaluation shall be conducted annually with the results of the evaluation provided to the governor, speaker of the house, and president pro tempore of the senate.

9. For a two-year private vocational or technical school to obtain reimbursements under subsection 7 of this section, the following requirements shall be satisfied:

(1) Such two-year private vocational or technical school shall be a member of the North Central Association and be accredited by the Higher Learning Commission as of July 1, 2008, and maintain such accreditation;

(2) Such two-year private vocational or technical school shall be designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

(3) No two-year private vocational or technical school shall receive tuition reimbursements in excess of the tuition rate charged by a public community college for course work offered by the private vocational or technical school within the service area of such college; and

(4) The reimbursements provided to any two-year private vocational or technical school shall not violate the provisions of article IX, section 8, or article I, section 7, of the Missouri Constitution or the first amendment of the United States Constitution.

Approved May 27, 2010

HB 2161 [HCS HB 2161]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies that "commercial purposes" as it relates to the sale of driver's license application information will not include when used, compiled, or obtained for certain purposes expressly allowed by law

AN ACT to repeal section 302.183, RSMo, and to enact in lieu thereof one new section relating to driver's license application information.

SECTION

A. Enacting clause.

302.183. Proof of residency, issuance or renewal of license, privacy rights not to be violated, confidentiality of data.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 302.183, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 302.183, to read as follows:

302.183. PROOF OF RESIDENCY, ISSUANCE OR RENEWAL OF LICENSE, PRIVACY RIGHTS NOT TO BE VIOLATED, CONFIDENTIALITY OF DATA. — 1. Notwithstanding any provision of this chapter that requires an applicant to provide reasonable proof of residence for issuance or renewal of a noncommercial driver's license, noncommercial instruction permit, or a nondriver's license, an applicant shall not have his or her privacy rights violated in order to obtain or renew a Missouri noncommercial driver's license, noncommercial instruction permit, or a nondriver's license.

2. Any data derived from a person's application shall not be sold for commercial purposes to any other organization or any other state without the express permission of the applicant without a court order; except such information may be shared with a law enforcement agency, judge, prosecuting attorney, or officer of the court, or with another state for the limited purposes set out in section 302.600 or for conducting driver history checks in compliance with the Motor Carrier Safety Improvement Act, 49 U.S.C. 31309. The state of Missouri shall protect the privacy of its citizens when handling any written, digital, or electronic data, and shall not participate in any standardized identification system using driver's and nondriver's license records. **For purposes of this subsection, "commercial purposes" does not include data used or compiled solely to be used for, or obtained or compiled solely for purposes expressly allowed under the Missouri or federal Drivers Privacy Protection Act.**

3. The department of revenue shall not amend procedures for applying for a driver's license or identification card in order to comply with the goals or standards of the federal REAL ID Act of 2005, any rules or regulations promulgated under the authority granted in such act, or any requirements adopted by the American Association of Motor Vehicle Administrators for furtherance of the act.

4. Any biometric data previously collected, obtained, or retained in connection with motor vehicle registration or operation, the issuance or renewal of driver's licenses, or the issuance or

renewal of any identification cards by any department or agency of the state charged with those activities shall be retrieved and deleted from all databases. The provisions of this subsection shall not apply to any data collected, obtained, or retained for a purpose other than compliance with the federal REAL ID Act of 2005. For purposes of this section, "biometric data" includes, but is not limited to:

- (1) Facial feature pattern characteristics;
- (2) Voice data used for comparing live speech with a previously created speech model of a person's voice;
- (3) Iris recognition data containing color or texture patterns or codes;
- (4) Retinal scans, reading through the pupil to measure blood vessels lining the retina;
- (5) Fingerprint, palm prints, hand geometry, measuring of any and all characteristics of biometric information, including shape and length of fingertips or recording ridge pattern or fingertip characteristics;
- (6) Eye spacing;
- (7) Characteristic gait or walk;
- (8) DNA;
- (9) Keystroke dynamics, measuring pressure applied to key pads or other digital receiving devices.

5. No citizen of this state shall have his or her privacy compromised by the state or agents of the state. The state shall within reason protect the sovereignty of the citizens the state is entrusted to protect.

Approved July 2, 2010

HB 2182 [HB 2182]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies that, as used in Missouri statutes, "agritourism" means the act of visiting a working farm or any agricultural operation for the enjoyment, education, training, or involvement in its activities

AN ACT to amend chapter 262, RSMo, by adding thereto one new section relating to agritourism.

SECTION

A. Enacting clause.

262.001. Agritourism defined.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 262, RSMo, is amended by adding thereto one new section, to be known as section 262.001, to read as follows:

262.001. AGRITOURISM DEFINED. — As used in the statutory laws of this state, "agritourism" means the act of visiting a working farm or any agricultural operation for the purpose of enjoyment, education, training, or active involvement in the activities of the agricultural operation.

Approved June 24, 2010

HB 2198 [SS SCS HCS HB 2198]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the Motor Vehicle Franchise Practices Act

AN ACT to repeal sections 407.810, 407.815, 407.817, 407.822, 407.825, 407.828, and 407.835, RSMo, and to enact in lieu thereof thirteen new sections relating to motor vehicle franchise practices.

SECTION

- A. Enacting clause.
- 407.810. Citation of law.
- 407.811. Public policy statement.
- 407.812. Compliance with act required — applicability of act.
- 407.815. Definitions.
- 407.817. Establishment or transfer of an existing franchise, procedures for franchisor.
- 407.818. License required.
- 407.819. Successor manufacturer, restrictions on line-make franchise offers — fair market value calculation.
- 407.822. Complaint with administrative hearing commission, filing, when — time and place of hearing — notice to parties — final order, when — petition for review of final order — franchisee's right to file complaint, when — notice to franchisee, when, exceptions — statement required in franchisor's notice — consolidation of applications — burden of proof — mediation, when.
- 407.825. Unlawful practices.
- 407.828. Franchisor's duties to franchisee — schedule of compensation — claims payment — retail rate calculation — audit authority.
- 407.831. Indemnification and hold harmless requirements.
- 407.833. Modification of franchise prohibited, when — complaint procedure with administrative hearing commission, written decision required.
- 407.835. Franchisee's right to action for damages, injunction, when — recovery of damages — dispute restrictions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 407.810, 407.815, 407.817, 407.822, 407.825, 407.828, and 407.835, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 407.810, 407.811, 407.812, 407.815, 407.817, 407.818, 407.819, 407.822, 407.825, 407.828, 407.831, 407.833, and 407.835, to read as follows:

407.810. CITATION OF LAW. — Sections 407.810 to 407.835 shall be known and may be cited as the "Motor Vehicle Franchise Practices Act" **or the "MVFP Act"**.

407.811. PUBLIC POLICY STATEMENT. — **It is declared to be the public policy of the state to provide for fair and impartial regulation of those persons engaged in the manufacturing, distributing, importing, or selling of motor vehicles. The provisions of the MVFP act shall be administered in such a manner that will promote fair dealing and honesty in the motor vehicle industry and among those engaged therein without unfair or unreasonable discrimination or undue preference or advantage. It is further declared to be the policy of the state to protect the public interest in the purchase and trade of motor vehicles so as to ensure protection against irresponsible vendors and dishonest or fraudulent sales practices and to assist, provide, and secure a stable, efficient, enforceable, and verifiable method for the distribution of motor vehicles to consumers in the state.**

407.812. COMPLIANCE WITH ACT REQUIRED — APPLICABILITY OF ACT. — **1. Any franchisor obtaining or renewing its license after August 28, 2010, shall be bound by the provisions of the MVFP act and shall comply with it, and no franchise agreement made, entered, modified, or renewed after August 28, 2010, shall avoid the requirements of the**

MVFP act, or violate its provisions, and no franchise agreement shall be performed after the date the franchisor's license is issued or renewed in such a manner that the franchisor avoids or otherwise does not conform or comply with the requirements of the MVFP act. Notwithstanding the effective date of any franchise agreement, all franchisor licenses and renewals thereof are issued subject to all provisions of the MVFP act and chapter 301 and any regulations in effect upon the date of issuance, as well as all future provisions of the MVFP act and chapter 301 and any regulations which may become effective during the term of the license.

2. The provisions of the MVFP act shall apply to each franchise that a franchisor, manufacturer, importer, or distributor has with a franchisee and all agreements between a franchisee and a common entity or any person that is controlled by a franchisor.

407.815. DEFINITIONS. — As used in sections 407.810 to 407.835, unless the context otherwise requires, the following terms mean:

(1) "Administrative hearing commission", the body established in chapter 621, RSMo, to conduct administrative hearings;

(2) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of six hundred pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control;

(3) "Coerce", to [force a person to act in a given manner or to compel by pressure or threat] **compel or attempt to compel a person to act in a given manner by pressure, intimidation, or threat of harm, damage, or breach of contract**, but shall not [be construed to] include the following:

(a) Good faith recommendations, exposition, argument, persuasion or attempts at persuasion **without unreasonable conditions**;

(b) Notice given in good faith to any franchisee of such franchisee's violation of terms or provisions of such franchise or contractual agreement; **or**

(c) [Any other conduct set forth in section 407.830 as a defense to an action brought pursuant to sections 407.810 to 407.835; or

(d)] Any [other] conduct set forth in sections 407.810 to 407.835 that is permitted of the franchisor [or is expressly excluded from coercion or a violation of sections 407.810 to 407.835];

(4) "Common entity", a person:

(a) **Who is either controlled or owned, beneficially or of record, by one or more persons who also control or own more than forty percent of the voting equity interest of a franchisor; or**

(b) **Who shares directors or officers or partners with a franchisor;**

(5) "Control", to possess, directly or indirectly, the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise; except that "control" does not include the relationship between a franchisor and a franchisee under a franchise agreement;

(6) "Dealer-operator", the individual who works at the established place of business of a dealer and who is responsible for and in charge of day-to-day operations of that place of business;

(7) "Distributor", a person, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers in this state;

(8) "Franchise" or "franchise agreement", a written arrangement or contract for a definite or indefinite period, in which a person grants to another person a license to use, or the right to grant to others a license to use, a trade name, trademark, service mark, or related characteristics, in which there is a community of interest in the marketing of goods or services, or both, at wholesale or retail, by agreement, lease or otherwise, and in which the operation of the franchisee's business with respect to such franchise is substantially reliant on the franchisor for

the continued supply of franchised new motor vehicles, parts and accessories for sale at wholesale or retail. **The franchise includes all portions of all agreements between a franchisor and a franchisee, including but not limited to, a contract, new motor vehicle franchise, sales and service agreement, or dealer agreement, regardless of the terminology used to describe the agreement or relationship between the franchisor and franchisee, and also includes all provisions, schedules, attachments, exhibits and agreements incorporated by reference therein;**

[(5)] (9) "Franchisee", a person to whom a franchise is granted;

[(6)] (10) "Franchisor", a person who grants a franchise to another person;

(11) "Good faith", the duty of each party to any franchise and all officers, employees, or agents thereof, to act in a fair and equitable manner toward each other so as to guarantee the one party freedom from coercion, intimidation, or threat of coercion or intimidation from the other party;

(12) "Importer", a person who has written authorization from a foreign manufacturer of a line-make of motor vehicles to grant a franchise to a motor vehicle dealer in this state with respect to that line-make;

(13) "Line-make", a collection of models, series, or groups of motor vehicles manufactured by or for a particular manufacturer, distributor or importer offered for sale, lease or distribution pursuant to a common brand name or mark; provided, however:

(a) Multiple brand names or marks may constitute a single line-make, but only when included in a common dealer agreement and the manufacturer, distributor or importer offers such vehicles bearing the multiple names or marks together only, and not separately, to its authorized dealers; and

(b) Motor vehicles bearing a common brand name or mark may constitute separate line-makes when pertaining to motor vehicles subject to separate dealer agreements or when such vehicles are intended for different types of use;

(14) "Manufacturer", any person, whether a resident or nonresident of this state, who manufactures or assembles motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment which, when installed, form an integral part of the motor vehicle and which constitute a major manufacturing alteration. The term "manufacturer" includes a central or principal sales corporation or other entity, other than a franchisee, through which, by contractual agreement or otherwise, it distributes its products;

[(7)] (15) "Motor vehicle", for the purposes of sections 407.810 to 407.835, any motor-driven vehicle required to be registered pursuant to the provisions of chapter 301, RSMo, except that, motorcycles and all-terrain vehicles as defined in section 301.010, RSMo, shall not be included. The term "motor vehicle" shall also include any engine, transmission, or rear axle, regardless of whether attached to a vehicle chassis, that is manufactured for the installation in any motor-driven vehicle with a gross vehicle weight rating of more than sixteen thousand pounds that is registered for the operations on the highways of this state under chapter 301, RSMo;

[(8)] (16) "New", when referring to motor vehicles or parts, means those motor vehicles or parts which have not been held except as inventory, as that term is defined in subdivision (4) of section 400.9-109, RSMo;

[(9)] (17) "Person", a natural person, sole proprietor, partnership, corporation, or any other form of business entity or organization;

(18) "Principal investor", the owner of the majority interest of any franchisee;

(19) "Reasonable", shall be based on the circumstances of a franchisee in the market served by the franchisee;

(20) "Require", to impose upon a franchisee a provision not required by law or previously agreed to by a franchisee in a franchise agreement;

(21) "Successor manufacturer", any manufacturer that succeeds, or assumes any part of the business of, another manufacturer, referred to as the "predecessor manufacturer", as the result of:

(a) A change in ownership, operation, or control of the predecessor manufacturer by sale or transfer of assets, corporate stock, or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, court-approved sale, operation of law, or otherwise;

(b) The termination, suspension or cessation of a part or all of the business operations of the predecessor manufacturer;

(c) The noncontinuation of the sale of the product line; or

(d) A change in distribution system by the predecessor manufacturer, whether through a change in distributor or the predecessor manufacturer's decision to cease conducting business through a distributor altogether.

407.817. ESTABLISHMENT OR TRANSFER OF AN EXISTING FRANCHISE, PROCEDURES FOR FRANCHISOR. — 1. Notwithstanding any provision of a franchise to the contrary, for purposes of [this section] **the MVFP act**, "relevant market area" means:

(1) For a proposed new motor vehicle dealer or a new motor vehicle dealer who plans to **locate or** relocate his or her place of business in a county having a population which is greater than one hundred thousand, the area within a radius of [six] **eight** miles of the intended site of the proposed or relocated dealer. The [six-mile] **eight-mile** distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business; or

(2) For a proposed new motor vehicle dealer or a new motor vehicle dealer who plans to **locate or** relocate his or her place of business in a county having a population which is not greater than one hundred thousand, the area within a radius of [ten] **fifteen** miles of the intended site of the proposed or relocated dealer[, or the county line, whichever is closer to the intended site]. The [ten-mile] **fifteen-mile** distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

2. As used in this section, "relocate" and "relocation" shall not include the relocation of a new motor vehicle dealer within two miles of its established place of business.

3. Before a franchisor enters into a franchise establishing **an additional franchise, reopening a previously existing franchise**, or relocating [a new motor vehicle dealer] **an existing franchise** within a relevant market area where the same line-make is represented, the franchisor shall give written notice to each [new motor vehicle dealer] **franchisee** of the same line-make in the relevant market area of its intention to establish an additional [dealer] **franchise, reopen a previously existing franchise**, or [to] relocate an existing [dealer] **franchise** within that relevant market area. **Such notice shall state:**

(1) **The specific location at which the additional, reopened, or relocated franchise will be established; and**

(2) **The date on or after which the franchisor intends to be engaged in business with the additional, reopened, or relocated franchise at the proposed location.**

4. Within thirty days after receiving the notice provided for in subsection 3 of this section, or within thirty days after the end of any appeal procedure provided by the franchisor, a [new motor vehicle dealer] **franchisee to whom notice was required in subsection 3 of this section** may bring an action pursuant to section 407.822 to determine whether good cause exists for [the] establishing **an additional franchise, reopening a previously existing franchise**, or relocating [of a proposed new motor vehicle dealer] **an existing franchise**.

5. This section shall not apply to the reopening or replacement in a relevant market area of a closed [dealership] **franchise** that has been closed within the preceding year, if the established place of business of the reopened or replacement [dealer] **franchise** is within two miles of the established place of business of the closed [dealership] **franchise** **and only if the reopened or replaced franchise is offered to the franchisee who had previously operated the closed franchise within the preceding year if that franchise had not been terminated under the provisions of the MVFP act or had not voluntarily closed the franchise.**

6. In determining whether good cause exists for establishing **an additional franchise, reopening a previously existing franchise,** or relocating [an additional new motor vehicle dealer] **a franchise** for the same line-make, the [court] **administrative hearing commission** shall take into consideration [the existing] **all relevant** circumstances, including, but not limited to, the following:

(1) **The size and permanency of the investment and obligations incurred by the existing franchisees of the same line-make in the relevant market area; and any damage that such existing franchisees may suffer from the establishment, reopening, or relocation of a franchise into the relevant market area;**

(2) **The effect on the retail motor vehicle business and the consuming public in the relevant market area;**

(3) Whether it is injurious or beneficial to the public welfare;

(4) Whether the [new motor vehicle dealers] **existing franchisees** of the same line-make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line-make in the **relevant** market area, including the adequacy of motor vehicle sales and qualified service personnel;

(5) Whether the establishment, **reopening,** or relocation of [the new motor vehicle dealer] **a franchise** would promote competition; **and whether the benefits to the public and the franchisor from any such increased competition outweigh the harm to the existing franchisees in the relevant market area;**

(6) Growth or decline of the population and the number of new motor vehicle registrations in the relevant market area; and

(7) **The effect on the reopening or relocating [dealer] franchisee of a denial of its relocation into the relevant market area.**

7. The remedies and relief available pursuant to **this** section [407.835 shall apply to this section] **are not exclusive and are in addition to those provided in section 407.835 or otherwise permitted by law or equity.**

407.818. LICENSE REQUIRED. — No franchisor shall engage in business in this state without a license therefor as provided in sections 301.550 to 301.573. No motor vehicle, foreign or domestic, may be sold, leased, or offered for sale or lease in this state unless the franchisor, which issues a franchise to a franchisee in this state, is licensed under sections 301.550 to 301.573. No franchisor shall modify the area of responsibility to avoid the requirements of section 407.817 or 407.833, or any other section of the MVFP act. Each franchisor shall renew its license annually by the date specified by the department of revenue.

407.819. SUCCESSOR MANUFACTURER, RESTRICTIONS ON LINE-MAKE FRANCHISE OFFERS — FAIR MARKET VALUE CALCULATION. — 1. Notwithstanding any provision in a franchise to the contrary, no successor manufacturer shall, for a period of two years from the date of acquisition of control by that successor manufacturer of a line-make from a predecessor manufacturer, offer a franchise to any person for a line-make of a predecessor manufacturer in any portion of the relevant market area in which the predecessor manufacturer previously cancelled, terminated, noncontinued, failed to renew, or otherwise ended a franchise agreement with a franchisee who had a franchise

facility in that relevant market area without first offering the franchise to the former franchisee at no cost, unless:

(1) Within sixty days of the former franchisee's cancellation, termination, noncontinuance, or nonrenewal, the predecessor manufacturer had consolidated the line-make with another of its line-makes for which the predecessor manufacturer had a franchisee with a then-existing franchise facility in that relevant market area;

(2) The successor manufacturer has paid the former franchisee the fair market value of the former franchisee's motor vehicle dealership in accordance with this section;

(3) The predecessor manufacturer successfully terminated the former franchisee under subdivision (5) of section 407.825.

2. For purposes of this section, the fair market value of a former franchisee's motor vehicle dealership shall be calculated as of the date of the following that yields the highest fair market value: the date the predecessor manufacturer announced the action that resulted in the cancellation, termination, noncontinuance, or nonrenewal; the date the action that resulted in cancellation, termination, noncontinuance, or nonrenewal became final; or the date twelve months prior to the date that the predecessor manufacturer announced the action that resulted in the cancellation, termination, noncontinuance, or nonrenewal.

407.822. COMPLAINT WITH ADMINISTRATIVE HEARING COMMISSION, FILING, WHEN — TIME AND PLACE OF HEARING — NOTICE TO PARTIES — FINAL ORDER, WHEN — PETITION FOR REVIEW OF FINAL ORDER — FRANCHISEE'S RIGHT TO FILE COMPLAINT, WHEN — NOTICE TO FRANCHISEE, WHEN, EXCEPTIONS — STATEMENT REQUIRED IN FRANCHISOR'S NOTICE — CONSOLIDATION OF APPLICATIONS — BURDEN OF PROOF — MEDIATION, WHEN. — 1. Any party seeking relief pursuant to the provisions of sections 407.810 to 407.835 may file [an application for a hearing] **a complaint** with the administrative hearing commission within the time periods specified in this section. The [application for a hearing] **complaint** shall comply with the requirements for a request for agency action set forth in chapter 536, RSMo. Simultaneously, with the filing of the [application for a hearing] **complaint** with the administrative hearing commission, the [applicant] **petitioner** shall send by certified mail, return receipt requested, a copy of the [application] **complaint** to the party or parties against whom relief is sought. Upon receiving a timely [application for a hearing] **complaint**, the administrative hearing commission shall enter an order fixing a date, time and place for a hearing on the record. The administrative hearing commission shall send by certified mail, return receipt requested, a copy of the order to the party seeking relief and **a copy of the order and complaint** to the party or parties against whom relief is sought. The order shall also state that the party against whom relief is sought shall not proceed with the initiation of its activity or activities until the administrative hearing commission issues its final decision or order, and the party against whom relief is sought shall, within thirty days of such order, file an answer or other responsive pleading directed to each claim for relief set forth in the [application for hearing] **complaint**. Failure to answer or otherwise respond within such time frame may be deemed by the administrative hearing commission as an admission of the grounds for relief set forth in the [application for hearing] **complaint**.

2. Unless otherwise expressly provided in sections 407.810 to 407.835, the provisions of chapter 536, RSMo, shall govern hearings and prehearing procedures conducted pursuant to the authority of this section. Any party may obtain discovery in the same manner, and under the same conditions and requirements, as is or may hereafter be provided for with respect to discovery in civil actions by rule of the supreme court of Missouri for use in the circuit courts, and the administrative hearing commission may enforce discovery by the same methods as provided by supreme court rule for use in civil cases. The administrative hearing commission shall issue a final decision or order, in proceedings arising pursuant to the provisions of sections 407.810 to 407.835, within ninety days from the conclusion of the hearing. In any proceeding

initiated pursuant to sections 407.810 to 407.835 involving a matter requiring a franchisor to show good cause for any intended action being protested by a franchisee, the franchisor shall refrain from taking the protested action if, after a hearing on the matter before the administrative hearing commission, the administrative hearing commission determines that good cause does not exist for the franchisor to take such action. The franchisee may, if necessary, seek enforcement of the decision of the administrative hearing commission pursuant to the provisions of section 407.835. Venue for such proceedings shall be in the circuit court of Cole County, Missouri, or in the circuit court of the county in which the franchisee resides or operates the franchise business. In determining any relief necessary for enforcement of the decision of the administrative hearing commission, the court shall defer to the commission's factual findings, and review shall be limited to a determination of whether the commission's decision was authorized by law and whether the commission abused its discretion. Any final decisions of the administrative hearing commission shall be subject to review pursuant to a petition for review to be filed in the court of appeals in the district in which the hearing, or any part of the hearing, is held and by delivery of copies of the petition to each party of record, within thirty days after the mailing or delivery of the final decision and notice of the final decision in such a case. Appeal of the administrative hearing commission's decision pursuant to this section shall not preclude any action authorized by section 407.835, brought in a court of competent jurisdiction, requesting an award of legal or equitable relief, provided that if such an action is brought solely for the purpose of enforcing a decision of the administrative hearing commission which is on appeal pursuant to this subsection, the court in which such action is pending may hold in abeyance its judgment pending issuance of a decision by the court of appeals. Review pursuant to this section shall be exclusive and decisions of the administrative hearing commission reviewable pursuant to this section shall not be reviewable in any other proceeding, and no other official or court shall have power to review any such decision by an action in the nature of mandamus or otherwise, except pursuant to the provisions of this section. The party seeking review shall be responsible for the filing of the transcript and record of all proceedings before the administrative hearing commission with the appropriate court of appeals.

3. Any franchisee receiving a notice from a franchisor pursuant to the provisions of sections 407.810 to 407.835, or any franchisee adversely affected by a franchisor's acts or proposed acts described in the provisions of sections 407.810 to 407.835, shall be entitled to file [an application for a hearing] **a complaint** before the administrative hearing commission for a determination as to whether the franchisor has good cause for its acts or proposed acts.

4. Not less than sixty days before the effective date of the initiation of any enumerated act pursuant to subdivisions (5), (6), (7) and (14) of [subsection 1 of] section 407.825, a franchisor shall give written notice to the affected franchisee or franchisees, by certified mail, return receipt requested, except as follows:

(1) Upon the initiation of an act pursuant to subdivision (5) of [subsection 1 of] section 407.825, such notice shall be given not less than fifteen days before the effective date of such act only if the grounds for the notice include the following:

(a) Transfer of any ownership or interest in the franchised dealership without the consent of the motor vehicle franchisor;

(b) Material misrepresentation by the motor vehicle franchisee in applying for the franchise **that substantially and adversely affects the franchisor**;

(c) Insolvency of the motor vehicle franchisee or the filing of any petition by or against the motor vehicle franchisee under any bankruptcy or receivership law **that is not vacated within twenty days from the institution thereof**;

(d) Any unfair business practice by the motor vehicle franchisee after the motor vehicle franchisor has issued a written **thirty-day** warning to the motor vehicle franchisee to desist from such practice **and the franchisee has failed to desist from the practice after having received the written thirty-day warning**;

(e) Conviction of the motor vehicle franchisee of a crime which is a felony;

(f) Failure of the motor vehicle franchisee to conduct customary sales and service operations during customary business hours for at least seven consecutive business days unless such closing is due to an act of God, strike or labor difficulty or other cause over which the motor vehicle franchisee has no control; or

(g) Revocation of the motor vehicle franchisee's license;

(2) Upon initiation of an act pursuant to subdivision (7) of [subsection 1 of] section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a written proposal to consummate such sale or transfer and the receipt of all necessary information and documents generally used by the franchisor to conduct its review. The franchisor shall acknowledge in writing to the applicant the receipt of the information and documents and if the franchisor requires additional information or documents to complete its review, the franchisor shall notify the applicant within fifteen days of the receipt of the information and documents. If the franchisor fails to request additional information and documents from the applicant within fifteen days after receipt of the initial forms, the sixty-day time period for approval shall be deemed to run from the initial receipt date. Otherwise, the sixty-day time period for approval shall run from receipt of the supplemental requested information. In no event shall the total time period for approval exceed [seventy-five] **ninety** days from the date of the receipt of [all necessary information and documents generally used by the franchisor to conduct its review] **the written proposal**. The franchisor's notice of disapproval shall also specify the reasonable standard which the franchisor contends is not satisfied and the reason the franchisor contends such standard is not satisfied. Failure on the part of the franchisor to provide such notice shall be conclusively deemed an approval by the franchisor of the proposed sale or transfer to the proposed transferee. A franchisee's application for a hearing shall be filed with the administrative hearing commission within twenty days from receipt of such franchisor's notice;

(3) Pursuant to paragraphs (a) and (b) of subdivision (14) of [subsection 1 of] section 407.825, such notice shall be given within sixty days of the franchisor's receipt of a deceased or incapacitated franchisee's designated family member's intention to succeed to the franchise or franchises or of the franchisor's receipt of the personal and financial data of the designated family member, whichever is later.

5. A franchisor's notice to a franchisee or franchisees pursuant to subdivisions (5), (6), (7) and (14) of [subsection 1 of] section 407.825 shall contain a statement of the particular grounds supporting the intended action or activity which shall include any reasonable standards which were not satisfied. The notice [shall also contain at a minimum] **is not effective unless it also contains**, on the first page thereof, a conspicuous statement which reads as follows: "NOTICE TO FRANCHISEE: YOU MAY BE ENTITLED TO FILE A PROTEST WITH THE MISSOURI ADMINISTRATIVE HEARING COMMISSION IN JEFFERSON CITY, MISSOURI, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE CONTENTS OF THIS NOTICE. ANY ACTION MUST BE FILED WITHIN [TWENTY] **THIRTY** DAYS FROM RECEIPT OF THIS NOTICE. **YOU ALSO HAVE THE RIGHT TO DEMAND NONBINDING MEDIATION. YOUR DEMAND FOR MEDIATION MAY BE MAILED TO THE ADDRESS SHOWN ON THIS NOTICE. FOR FURTHER INFORMATION, CONTACT YOUR ATTORNEY AND REFER TO SECTIONS 407.810 TO 407.835, RSMO.**"

6. When more than one [application for a hearing] **complaint** is filed with the administrative hearing commission, the administrative hearing commission may consolidate the applications into one proceeding to expedite the disposition of all relevant issues.

7. **Unless otherwise specifically required by another provision of the MVFP act**, in all proceedings [before the administrative hearing commission] pursuant to [this section, section 407.825 and section 621.053, RSMo, where the franchisor is required to give notice pursuant to subsection 4 of this section] **sections 407.810 to 407.835**, the franchisor shall have the burden of proving by a preponderance of the evidence that **it has acted in good faith, that all required**

notices were given, and that good cause exists for its actions. [In all other actions, the franchisee shall have the burden of proof.]

8. If a franchisee prevails in an action against a franchisor under any provision of sections 407.810 to 407.835, then the franchisee shall also have a cause of action against the franchisor for damages and reasonable expenses of litigation, including, but not limited to, depositions, transcripts, expert witnesses, and attorney fees.

9. A franchisee may mail a demand for mediation to its franchisor at any time after it receives any notice from a franchisor as required by any provision of the MVFP act. In addition, prior to, contemporaneous with, or after the filing of a complaint with the administrative hearing commission, a franchisee may mail a demand for mediation to its franchisor for any violation by the franchisor of any provision of the MVFP act. The mailing of the demand for mediation is effective when mailed to the address shown on the notice from the franchisor, the address shown on the franchise agreement, the address of the franchisor shown on its license with the department of revenue, the address of the franchisor's registered agent in this state, or the address of its attorney in a proceeding pending at the administrative hearing commission concerning the subject of the demand for mediation. The demand for mediation shall contain a short statement of the dispute and the relief sought by the franchisee; however, the contents of the demand are not jurisdictional.

10. The mailing of a demand for mediation stays any time period for the franchisee to initiate any action under the MVFP act that is the subject of the dispute described in the demand for mediation. If the parties fail to resolve the matter in dispute after meeting with the mediator, then the time period for filing any action with the administrative hearing commission shall start on the first business day after the date of the last date of any meeting with the mediator.

11. If a proceeding is pending before the administrative hearing commission concerning the subject of the demand for mediation, the franchisee shall also file a copy of the demand for mediation with the administrative hearing commission. The filing of a copy of the demand for mediation with the administrative hearing commission shall stay any further action by the administrative hearing commission, other than the issuance of the order required of the administrative hearing commission under subsection 1 of this section informing the franchisor that it shall not proceed with the initiation of its activity or activities until the administrative hearing commission issues its final decision or order. If the matter is not resolved after the meeting with the mediator, then either party may inform the administrative hearing commission that the matter is not resolved and the administrative hearing commission shall issue its order terminating the stay of its proceeding.

12. Within five business days after the date of receipt of the demand for mediation, the franchisor shall contact the franchisee or its legal representative reflected in the demand for mediation to exchange suggested lists of mediators. The parties shall mutually accept a mediator within two business days after the date of exchanging suggested lists of mediators. If the parties cannot agree on a mediator, then the presiding judge in Cole County or in the circuit court for the county in which the franchisee does business shall appoint the mediator. Within twenty days after the receipt of the demand for mediation, the parties shall meet with the mediator for the purpose of attempting to resolve the dispute. The meeting shall take place in this state at a location designated by the mediator. The mediator may extend the date of the meeting upon the agreement of the parties or upon good cause shown by either party.

13. The director of revenue shall require each franchisor to establish and maintain a panel of mediators who may serve as mediators for disputes that may arise in this state with its franchisees.

407.825. UNLAWFUL PRACTICES. — Notwithstanding the terms of any franchise agreement **to the contrary**, the performance, whether by act or omission, by a motor vehicle franchisor, **whether directly or indirectly through an agent, employee, affiliate, common entity, or representative, or through an entity controlled by a franchisor**, of any or all of the following acts enumerated in this section are hereby defined as unlawful practices, the remedies for which are set forth in section 407.835:

(1) To engage in any conduct which is capricious[, in bad faith,] **or not in good faith** or unconscionable and which causes damage to a motor vehicle franchisee or to the public; provided, that good faith conduct engaged in by motor vehicle franchisors as sellers of new motor vehicles or parts or as holders of security interest therein, in pursuit of rights or remedies accorded to sellers of goods or to holders of security interests pursuant to the provisions of chapter 400, RSMo, uniform commercial code, shall not constitute unfair practices pursuant to sections 407.810 to 407.835;

(2) To coerce, **attempt to coerce, require or attempt to require** any motor vehicle franchisee to accept delivery of any new motor vehicle or vehicles, equipment, **tools**, parts or accessories therefor, or any other commodity or commodities which such motor vehicle franchisee has not ordered after such motor vehicle franchisee has rejected such commodity or commodities, **or which is not required by law or the franchise agreement**. It shall not be deemed a violation of this section for a motor vehicle franchisor to require a motor vehicle franchisee to have an inventory of parts, tools, and equipment reasonably necessary to service the motor vehicles sold by a motor vehicle franchisor; or new motor vehicles reasonably necessary to meet the demands of dealers or the public or to display to the public the full line of a motor vehicle franchisor's product line;

(3) To [unreasonably] **withhold, reduce, delay, or** refuse to deliver in reasonable quantities and within a reasonable time after receipt of orders for new motor vehicles, such motor vehicles as are so ordered and as are covered by such franchise and as are specifically publicly advertised by such motor vehicle franchisor to be available for immediate delivery; provided, however, the failure to deliver any motor vehicle shall not be considered a violation of sections 407.810 to 407.835 if such failure is due to an act of God, work stoppage, or delay due to a strike or labor difficulty, shortage of products or materials, freight delays, embargo or other [cause] **causes** of which such motor vehicle franchisor shall have no control;

(4) To coerce, **attempt to coerce, require or attempt to require** any motor vehicle franchisee to enter into any agreement with such motor vehicle franchisor **or its agent, employee, affiliate, or representative, or a person controlled by the franchisor** or to do any other act prejudicial to such motor vehicle franchisee[, by threatening to cancel any franchise or any contractual agreement existing between such motor vehicle franchisor and motor vehicle franchisee; provided, however, that notice in good faith to any motor vehicle franchisee of such motor vehicle franchisee's violation of any provisions of such franchise or contractual agreement shall not constitute a violation of sections 407.810 to 407.835];

(5) To terminate, cancel [or] , refuse to continue, **or refuse to renew** any franchise without good cause, [directly or indirectly through the actions of the franchisor,] unless such new motor vehicle franchisee, **without good cause**, substantially defaults in the performance of such franchisee's reasonable [and] , lawful, **and material** obligations under such franchisee's franchise[, or such new motor vehicle franchisor discontinues the sale in the state of Missouri of such franchisor's products which are the subject of the franchise]. In determining whether good cause exists, the administrative hearing commission shall take into consideration [the existing] **all relevant** circumstances, including, but not limited to, the following factors:

- (a) [The franchisee's sales in relation to sales in the market;
- (b) The franchisee's investment and obligations;
- (c) Injury to the public welfare;
- (d) The adequacy of the franchisee's service facilities, equipment, parts and personnel in relation to those of other franchisees of the same line-make;

- (e) Whether warranties are being honored by the franchisee;
 - (f) The parties' compliance with their franchise agreement;
 - (g) The desire of a franchisor for market penetration or a market study, if any, prepared by the franchisor or franchisee are two factors which may be considered;
 - (h) The harm to the franchisor;] **The amount of business transacted by the franchisee;**
 - (b) The investments necessarily made and obligations incurred by the franchisee, including but not limited to goodwill, in the performance of its duties under the franchise agreement, together with the duration and permanency of such investments and obligations;**
 - (c) The potential for harm and inconvenience to consumers as a result of disruption of the business of the franchisee;**
 - (d) The franchisee's failure to provide adequate service facilities, equipment, parts, and qualified service personnel;**
 - (e) The franchisee's failure to perform warranty work on behalf of the manufacturer, subject to reimbursement by the manufacturer;**
 - (f) The franchisee's failure to substantially comply, in good faith, with requirements of the franchise that are determined to be reasonable, lawful, and material;**
 - (g) The franchisor's failure to honor its requirements under the franchise;**
 - (h) The potential harm to the area that the franchisee serves;**
 - (i) The demographic and geographic characteristics of the area the franchisee serves;**
 - and**
 - (j) The harm to the franchisor;**
 - (6) To prevent by contract or otherwise, any motor vehicle franchisee from changing the capital structure of the franchisee's franchise [of such motor vehicle franchisee] or the means by or through which the franchisee finances the operation of the franchisee's franchise, provided the motor vehicle franchisee at all times meets any reasonable capital standards agreed to between the motor vehicle franchisee and the motor vehicle franchisor and grants to the motor vehicle franchisor a purchase money security interest in the new motor vehicles, new parts and accessories purchased from the motor vehicle franchisor;
 - (7) (a) To prevent, by contract or otherwise, any sale or transfer of a franchisee's franchise or [franchises or] interest or management thereof; provided, if the franchise specifically permits the franchisor to approve or disapprove any such proposed sale or transfer, a franchisor shall only be allowed to disapprove a proposed sale or transfer if the interest being sold or transferred when added to any other interest owned by the transferee constitutes fifty percent or more of the ownership interest in the franchise and if the proposed transferee fails to satisfy any standards of the franchisor which are in fact normally relied upon by the franchisor prior to its entering into a franchise, and which relate to the [proposed management or ownership of the franchise operations or to the] qualification, capitalization, integrity or character of the proposed transferee and which are reasonable. A franchisee **or proposed franchisee** may request, at any time, that the franchisor provide a copy of the standards which are normally relied upon by the franchisor to evaluate a proposed sale or transfer and a proposed transferee;
 - (b) The franchisee and the prospective franchisee shall cooperate [fully] with the franchisor in providing information relating to the prospective transferee's qualifications, capitalization, integrity and character;
 - (c) In the event of a proposed sale or transfer of a franchise, the franchisor shall be permitted to exercise a right of first refusal to acquire the franchisee's assets or ownership if:
 - a. The franchise agreement permits the franchisor to exercise a right of first refusal to acquire the franchisee's assets or ownership in the event of a proposed sale or transfer;
 - b. Such sale or transfer is conditioned upon the franchisor or franchisee entering a franchise agreement with the proposed transferee;
-

c. The exercise of the right of first refusal shall result in the franchisee and the franchisee's owners receiving the same or greater consideration and the same terms and conditions as contracted to receive in connection with the proposed sale or transfer;

d. The sale or transfer does not involve the sale or transfer to an immediate member or members of the family of one or more franchisee owners, defined as a spouse, child, grandchild, spouse of a child or grandchild, brother, sister or parent of the franchisee owner, or to the qualified manager, defined as an individual who has been employed by the franchisee for at least two years and who otherwise qualifies as a franchisee operator, or a partnership or corporation controlled by such persons; and

e. The franchisor agrees to pay the reasonable expenses, including attorney's fees which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients, incurred by the proposed transferee prior to the franchisor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the franchise or the franchisee's assets. Notwithstanding the foregoing, no payment of such expenses and attorney's fees shall be required if the franchisee has not submitted or caused to be submitted an accounting of those expenses within fourteen days of the franchisee's receipt of the franchisor's written request for such an accounting. Such accounting may be requested by a franchisor before exercising its right of first refusal;

(d) For determining whether good cause exists for the purposes of this subdivision, the administrative hearing commission shall take into consideration [the existing] **all relevant** circumstances, including, but not limited to, the following factors:

a. Whether the franchise agreement specifically permits the franchisor to approve or disapprove any proposed sale or transfer;

b. Whether the interest to be sold or transferred when added to any other interest owned by the proposed transferee constitutes fifty percent or more of the ownership interest in the franchise;

c. Whether the proposed transferee fails to satisfy [any] **the** standards of the franchisor which are in fact normally relied upon by the franchisor prior to its entering into a franchise, and which related to the [proposed management or ownership of the franchise operations or to the] qualification, capitalization, integrity or character of the proposed transferee **and** which are **lawful and** reasonable;

d. [Injury to the public welfare] **The amount of business transacted by the franchisee;**

e. The [harm to the franchisor] **investments and obligations incurred by the franchisee, including but not limited to goodwill, in the performance of its duties under the franchise agreement, together with the duration and permanency of such investments and obligations;**

f. **The investments and obligations that the proposed transferee is prepared to make in the business;**

g. **The potential for harm and inconvenience to consumers as a result of the franchisor's decision;**

h. **The franchisor's failure to honor its requirements under the franchise;**

i. **The potential harm to the area that the franchisee serves;**

j. **The ability or willingness of the franchisee to continue in the business if the proposed transfer is not permitted;**

k. **The demographic and geographic characteristics of the area the franchisee serves; and**

l. **The harm to the franchisor;**

(8) To prevent by contract or otherwise any motor vehicle franchisee from changing the executive management of the motor vehicle franchisee's business, [except that any attempt by a] **unless the** motor vehicle franchisor [to demonstrate by giving reasons] **demonstrates** that such change in executive management will be detrimental to the distribution of the motor vehicle franchisor's motor vehicles [shall not constitute a violation of this subdivision];

(9) To impose unreasonable standards of performance upon a motor vehicle franchisee **or to require, attempt to require, coerce or attempt to coerce a franchisee to adhere to performance standards that are not applied uniformly to other similarly situated franchisees;**

(10) To require, **attempt to require, coerce, or attempt to coerce** a motor vehicle franchisee at the time of entering into a franchise **or any other** arrangement to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed by sections 407.810 to 407.835;

(11) To prohibit directly or indirectly the right of free association among motor vehicle franchisees for any lawful purpose;

(12) To provide any term or condition in any lease or other agreement ancillary or collateral to a franchise, **including, but not limited to, any agreement with a common entity or any person required by the franchisor or controlled by or affiliated with the franchisor,** which term or condition directly or indirectly violates the provisions of sections 407.810 to 407.835;

(13) Upon any termination, cancellation [or] , refusal to continue, **or refusal to renew** any franchise or any discontinuation of any line-make or parts or products related to such line-make [by a franchisor, fail] , **failing** to pay reasonable compensation to a franchisee as follows:

(a) **The franchisee's net acquisition cost** for any new, undamaged and unsold vehicle in the franchisee's inventory of either the current model year or **one year-prior model year** purchased from the franchisor [within one hundred twenty days] **or another franchisee of the same line-make in the ordinary course of business** prior to receipt of a notice of termination or nonrenewal, provided the vehicle has less than [five hundred] **seven hundred fifty** miles registered on the odometer, including mileage incurred in delivery from the franchisor or in transporting the vehicle between dealers for sale[, at the dealer's net acquisition cost, plus any cost to the dealer for returning the vehicle inventory to the franchisor];

(b) The franchisee's cost of each new, unused, undamaged and unsold part or accessory if the part or accessory is in the current parts catalog, less applicable allowances[, plus five percent of the catalog price of the part for the cost of packing and returning the part to the franchisor]. In the case of sheet metal, a comparable substitute for the original package may be used. Reconditioned or core parts shall be valued at their core value, the price listed in the current parts catalog or the amount paid for expedited return of core parts, whichever is higher. If the part or accessory was purchased by the franchisee from an outgoing authorized franchisee, the franchisor shall purchase the part **or accessory** for [either] the price in the current parts catalog [or the franchisee's actual purchase price of the part, whichever is less]. In the case of parts **or accessories** which no longer appear in the current parts catalog, the franchisor [may] **shall** purchase the [part] **parts or accessories** for [either] the price in the last version of the parts catalog in which the part **or accessory** appeared [or the franchisee's actual purchase price of the part, whichever is less]. The franchisee shall maintain accurate records regarding the actual purchase price of parts bought from an outgoing authorized franchisee. In the absence of such records, the franchisor is not required to purchase parts which are not in the current parts catalog];

(c) The [depreciated] **fair market** value [determined pursuant to generally accepted accounting principles] of each undamaged sign owned by the franchisee which bears a trademark or trade name used or claimed by the franchisor if the sign was purchased from, or purchased at the request of, the franchisor. **During the first seven years after its purchase, the fair market value of each sign shall be the franchisee's costs of purchasing the sign, less depreciation, using straight-line depreciation and a seven-year life of the asset;**

(d) The fair market value of all [special] **equipment, tools, data processing programs and** equipment and automotive service equipment owned by the franchisee which were recommended in writing and designated as [special] **equipment, tools, data processing programs and** equipment, **and automotive service equipment** and purchased from, or

purchased at the request of, the franchisor [within three years of the termination of the franchise], if the **equipment, tools, programs and equipment** are in usable and good condition, except for reasonable wear and tear. **During the first seven years after their purchase, the fair market value of each item of equipment, tools, and automotive service equipment shall be the franchisee's costs of purchasing the item, less depreciation, using straight-line depreciation and a seven-year life of the asset. During the first three years after its purchase, the fair market value of each item of required data processing programs and equipment shall be the franchisee's cost of purchasing the item, less depreciation, using straight-line depreciation and a three-year life of the asset;**

(e) [Except as provided in paragraph (a) of this subdivision, the cost of transporting,] **In addition to the costs referenced in paragraphs (a) to (d) of this subdivision, the franchisor shall pay the franchisee an additional five percent for handling, packing, storing and loading of any property subject to repurchase pursuant to this section [shall not exceed reasonable and customary charges; and] , and the franchisor shall pay the shipper for shipping the property subject to repurchase from the location of the franchisee to the location directed by the franchisor;**

(f) [The franchisor shall pay the franchisee the amounts specified in this subdivision within ninety days after the tender of the property subject to the franchisee providing evidence of good and clear title upon return of the property to the franchisor. The franchisor shall remove the property within one hundred eighty days after the tender of the property from the franchisee's property. Unless previous arrangements have been made and agreed upon, the franchisee is under no obligation to provide insurance for the property left after one hundred eighty days] **The amount remaining to be paid on any equipment or service contracts required by or leased from the franchisor or a subsidiary or company affiliated with or controlled or recommended by the franchisor. However, if the franchise agreement is voluntarily terminated by the franchisee, without coercion by the franchisor, then:**

a. **If the amount remaining to be paid on any equipment or service contract is owed to the franchisor, the franchisor shall cancel the obligation rather than paying the amount to the franchisee; and**

b. **If the amount remaining to be paid on any equipment or service contract is owed to a subsidiary or a company affiliated with or controlled or recommended by the franchisor, the franchisor may pay such amount to the subsidiary or the company affiliated with or controlled by the franchisor, but if the franchisor does not pay such amount to the subsidiary or the company affiliated with or controlled by the franchisor, such amount may be paid to the franchisee by the subsidiary or company affiliated with or controlled by the franchisor;**

(g) **If the dealer leases the dealership facilities, then the franchisor shall be liable for twelve months' payment of the gross rent or the remainder of the term of the lease, whichever is less. If the dealership facilities are not leased, then the franchisor shall be liable for the equivalent of twelve months' payment of gross rent. This paragraph shall not apply when the termination, cancellation, or nonrenewed line was under good cause related to a conviction and imprisonment for a felony involving moral turpitude that is substantially related to the qualifications, function, or duties of a franchisee as well as fraud and voluntary terminations of a franchise. Gross rent is the monthly rent plus the monthly cost of insurance and taxes. Such reasonable rent shall be paid only to the extent that the dealership premises are recognized in the franchise and only if they are used solely for performance in accordance with the franchise and not substantially in excess of those facilities recommended by the manufacturer or distributor. If the facility is used for the operations of more than one franchise, the gross rent compensation shall be adjusted based on the planning volume and facility requirements of the manufacturers, distributors, or branch or division thereof;**

(h) The franchisor shall pay to the franchisee the amount remaining to be paid on any leases of computer hardware or software that is used to manage and report data to the manufacturer or distributor for financial reporting requirements and the amount remaining to be paid on any manufacturer or distributor required equipment leases, service contracts, and sign leases. The franchisor's obligation shall not exceed one year on any such lease. However, if the franchise agreement is voluntarily terminated by the franchisee, without coercion by the franchisor, then:

a. If the amount remaining to be paid is owed to the franchisor, the franchisor shall cancel the obligation rather than paying the amount to the franchisee; and

b. If the amount remaining to be paid is owed to a subsidiary or a company affiliated with or controlled or recommended by the franchisor, the franchisor may pay such amount to the subsidiary or the company affiliated with or controlled by the franchisor, subject to the limit of the franchisor's one year obligation, but if the franchisor does not pay such amount to the subsidiary or the company affiliated with or controlled by the franchisor, such amount may be paid to the franchisee by the subsidiary or company affiliated with or controlled by the franchisor, subject to the limit of the franchisor's one year obligation;

(i) In addition to the other payments set forth in this section, if a termination, cancellation, or nonrenewal is premised upon the franchisor discontinuing the sale in this state of a line-make that was the subject of the franchise, then the franchisor shall also be liable to the franchisee for an amount at least equivalent to the fair market value of the franchisee's goodwill for the discontinued line-makes of the motor vehicle franchise on the date immediately preceding the date the franchisor announces the action which results in termination, cancellation, or nonrenewal, whichever amount is higher. At the franchisee's option, the franchisor may avoid paying fair market value of the motor vehicle franchise to the franchisee under this paragraph if the franchisor, or another motor vehicle franchisor under an agreement with the franchisor, offers the franchisee a replacement motor vehicle franchise with terms substantially similar to that offered to other same line-make dealers;

(j) The franchisor shall pay the franchisee all amounts incurred by the franchisee to upgrade its facilities that were required by the franchisor within twelve months prior to receipt of a notice of termination or nonrenewal; however, a franchisee shall not receive any benefits under this subdivision if it was terminated for the grounds set forth in subdivision (1) of subsection 4 of section 407.822. However, if the franchise agreement is voluntarily terminated by the franchisee, without coercion by the franchisor, and for a reason other than the death or incapacitation of the dealer principal, then the franchisor shall have no obligation under this paragraph; and

(k) The franchisor shall pay the franchisee the amounts specified in this subdivision along with any other amounts that may be due to the franchisee under the franchise agreement within sixty days after the tender of the property subject to the franchisee providing evidence of good and clear title upon return of the property to the franchisor. The franchisor shall remove the property within sixty days after the tender of the property from the franchisee's property. Unless previous arrangements have been made and agreed upon, the franchisee is under no obligation to provide insurance for the property left after sixty days;

(l) This subdivision shall not apply to a termination, cancellation or nonrenewal due to a sale of the assets or stock of the motor vehicle dealership;

(14) To prevent or refuse to honor the succession to a franchise or franchises by any legal heir or devisee under the will of a franchisee, under any written instrument filed with the franchisor designating any person as the person's successor franchisee, or pursuant to the laws of descent and distribution of this state; provided:

(a) Any designated family member of a deceased or incapacitated franchisee shall become the succeeding franchisee of such deceased or incapacitated franchisee if such designated family member gives the franchisor written notice of such family member's intention to succeed to the franchise or franchises within one hundred twenty days after the death or incapacity of the franchisee, and agrees to be bound by all of the **lawful** terms and conditions of the current franchise agreement, and the designated family member meets the current **lawful and** reasonable criteria generally applied by the franchisor in qualifying franchisees. **In order for the franchisor to claim that any such reasonable criteria are generally applied by the franchisor in qualifying franchisees, it shall have previously provided a copy to the proposed successor franchisee within ten days after receiving the proposed successor franchisee's notice.** A franchisee may request, at any time, that the franchisor provide a copy of such criteria generally applied by the franchisor in qualifying franchisees;

(b) The franchisor may request from a designated family member such personal and financial data as is reasonably necessary to determine whether the existing franchise agreement should be honored. The designated family member shall supply the personal and financial data promptly upon the request;

(c) If the designated family member does not meet the reasonable **and lawful** criteria generally applied by the franchisor in qualifying franchisees, the discontinuance of the current franchise agreement shall take effect not less than ninety days after the date the franchisor serves the required notice on the designated family member pursuant to subsection 4 of section 407.822;

(d) The provisions of this subdivision shall not preclude a franchisee from designating any person as the person's successor by written instrument filed with the franchisor, and if such an instrument is filed, it alone shall determine the succession rights to the management and operation of the franchise; and

(e) For determining whether good cause exists, the administrative hearing commission shall take into consideration [the existing] **all** circumstances, including, but not limited to, the following factors:

a. Whether the franchise agreement specifically permits the franchisor to approve or disapprove any successor;

b. Whether the proposed successor **substantially** fails to satisfy [any] **the material** standards of the franchisor which are in fact normally relied upon by the franchisor prior to the successor entering into a franchise, and which relate to the proposed management or ownership of the franchise operation or to the qualification, capitalization, integrity or character of the proposed successor and which are **lawful and** reasonable;

c. [Injury to the public welfare] **The amount of the business transacted by the franchisee;**

d. The [harm to the franchisor] **investments in and the obligations incurred by the franchisee, including but not limited to goodwill in the performance of its duties under the franchise agreement, together with the duration and permanency of such investments and obligations;**

e. **The investments and obligations that the proposed successor franchisee is prepared to make in the business;**

f. **The potential for harm and inconvenience to consumers as a result of the franchisor's decision;**

g. **The franchisor's failure to honor its requirements under the franchise;**

h. **The potential harm and injury to the public welfare in the area that the franchisee serves;**

i. **The ability or willingness of the franchisee to continue in the business if the proposed transfer is not permitted;**

j. **The demographic and geographic characteristics of the area the franchisee serves;**
and

k. The harm to the franchisor;

(15) To coerce, [threaten, intimidate or] **attempt to coerce, require, or attempt to** require a franchisee under any condition affecting or related to a franchise agreement, [or] to waive, limit or disclaim a right that the franchisee may have pursuant to the provisions of sections 407.810 to 407.835. Any contracts or agreements which contain such provisions shall be deemed against the public policy of the state of Missouri and are void and unenforceable. Nothing in this section shall prohibit voluntary settlement agreements **that specifically identifies the provisions of sections 407.810 to 407.835 that the franchisee is waiving, limiting, or disclaiming;**

(16) To initiate any act enumerated in this [subsection] **section** on grounds that it has advised a franchisee of its intention to discontinue representation at the time of a franchisee change or require any franchisee to enter into a site control agreement as a condition to initiating any act enumerated in this [subsection] **section**. Such condition shall not be construed to nullify an existing site control agreement for a franchisee's property;

(17) To require, **attempt to require**, coerce, or attempt to coerce any franchisee in this state to refrain from, or to terminate, cancel, or refuse to continue any franchise based upon participation by the franchisee in the management of, investment in or the acquisition of a franchise for the sale of any other line of new vehicle or related products in the same or separate facilities as those of the franchisor. This subdivision does not apply unless the franchisee maintains a reasonable line of credit for each make or line of new vehicle, the franchisee remains in compliance with the franchise and any reasonable facilities requirements of the franchisor, and no change is made in the principal management of the franchisee. The reasonable facilities requirement shall not include any requirement that a franchisee establish or maintain exclusive facilities, personnel, or display space, when such requirements [or any of them] would not otherwise be justified by reasonable business considerations. Before the addition of a line-make to the dealership facilities the franchisee [must] **shall** first request consent of the franchisor, if required by the franchise agreement. Any decision of the franchisor with regard to dualing of two or more franchises shall be granted or denied within sixty days of a written request from the [new vehicle dealer] **franchisee**. The [franchisor's] **franchisor's** failure to respond timely to a dualing request shall be deemed to be approval of the franchisee's request;

(18) To fail or refuse to offer to sell to all franchisees for a line-make **reasonable quantities** of every motor vehicle sold or offered for sale to any franchisee of that line-make[.] ; however, the failure to deliver any such motor vehicle shall not be considered a violation of this section if the failure [is not arbitrary, or] is due to a [lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo or other] cause over which the franchisor has no control. A franchisor may impose reasonable requirements on the franchisee including, but not limited to, the purchase of reasonable quantities of advertising materials, the purchase of special tools required to properly service a motor vehicle, the undertaking of sales person or service person training related to the motor vehicle, the meeting of reasonable display and facility requirements as a condition of receiving a motor vehicle, or other reasonable requirements; provided, that if a franchisor requires a franchisee to purchase essential service tools with a purchase price in the aggregate of more than seventy-five hundred dollars in order to receive a particular model of new motor vehicle, the franchisor shall upon written request provide such franchisee with a good faith estimate in writing of the number of vehicles of that particular model that the franchisee will be allocated during that model year in which the tools are required to be purchased;

(19) **To directly or indirectly condition the awarding of a franchise to a prospective franchisee, the addition of a line-make or franchise to an existing franchisee, the renewal of a franchise of an existing franchisee, the approval of the relocation of an existing franchisee's facility, or the approval of the sale or transfer of the ownership of a franchise on the willingness of a franchisee, proposed franchisee, or owner of an interest in the dealership facility to enter into a site control agreement or exclusive use agreement. For purposes of this subdivision, the terms "site control agreement" and "exclusive use**

agreement" include any agreement that has the effect of either requiring that the franchisee establish or maintain exclusive dealership facilities or restricting the ability of the franchisee, or the ability of the franchisee's lessor in the event the dealership facility is being leased, to transfer, sell, lease, or change the use of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase, option to lease, or other similar agreement, regardless of the parties to such agreement. Any provision contained in any agreement entered into on or after August 28, 2010, that is inconsistent with the provisions of this subdivision shall be voidable at the election of the affected franchisee, prospective franchisee, or owner of an interest in the dealership facility, provided this subdivision shall not apply to a voluntary agreement where separate, adequate, and reasonable consideration have been offered and accepted;

(20) Except for the grounds listed in subdivision (1) of subsection 4 of section 407.822, prior to the issuance of any notice of intent to terminate a franchise agreement under the MVFP act for unsatisfactory sales or service performance, the franchisor shall provide the franchisee with no less than one hundred twenty days written notice of the specific asserted grounds for termination. Thereafter, the franchisee shall have one hundred twenty days to cure the asserted grounds for termination, provided the grounds are both reasonable and of material significance to the franchise relationship. If the franchisee fails to cure the asserted grounds for termination by the end of the cure period, then the franchisor may give the sixty day notice required by subsection 4 of section 407.822 if it intends to terminate the franchise;

(21) To require, attempt to require, coerce, or attempt to coerce a franchisee, by franchise agreement or otherwise, or as a condition to the renewal or continuation of a franchise agreement, to:

(a) Exclude from the use of the franchisee's facilities a line-make for which the franchisee has a franchise agreement to utilize the facilities; or

(b) Materially change the franchisee's facilities or method of conducting business if the change would impose substantial or unreasonable financial hardship on the business of the franchisee;

(22) To fail to perform or cause to be performed any written warranties made with respect to any motor vehicle or parts thereof;

(23) To withhold, reduce, or delay unreasonably or without just cause services contracted for by franchisees;

(24) To coerce, attempt to coerce, require, or attempt to require any franchisee to provide installment financing with a specified financial institution;

(25) To require, attempt to require, coerce, or attempt to coerce any franchisee to close or change the location of the franchisee, or to make any substantial alterations to the franchise premises or facilities when doing so would be unreasonable under the current market and economic conditions. Prior to suggesting the need for any such action, the franchisor shall provide the franchisee with a written good faith estimate of the minimum number of the models of new motor vehicles that the franchisor will supply to the franchisee during a reasonable time period, not less than three years, so the franchisee may determine if it is a sufficient supply of motor vehicles so as to justify such changes, in light of the current market and reasonably foreseeable projected and economic conditions. A franchisor or its common entity or an entity controlled by or affiliated with the franchisor may not take or threaten to take any action that is unfair or adverse to a franchisee who does not enter into an agreement with the franchisor under this subdivision. This subdivision does not affect any contract between a franchisor and any of its franchisees regarding relocation, expansion, improvement, remodeling, renovation, or alteration which exists on August 28, 2010;

(26) To authorize or permit a person to perform warranty service repairs on motor vehicles unless the person is a franchisee with whom the manufacturer has entered into a franchise agreement for the sale and service of the manufacturer's motor vehicles unless for emergency repairs when a franchisee is not available or repairs pursuant to a fleet contract as long as all parts and labor to perform the repairs are less than one thousand five hundred dollars at retail per repaired vehicle;

(27) To discriminate between or refuse to offer to its same line-make franchisees all models manufactured for that line-make based upon unreasonable sales and service standards;

(28) To fail to make practically available any incentive, rebate, bonus, or other similar benefit to a franchisee that is offered to another franchisee of the same line-make within this state;

(29) To condition a franchise agreement on improvements to a facility unless reasonably required by the technology of a motor vehicle being sold at the facility;

(30) To condition the sale, transfer, relocation, or renewal of a franchise agreement, or to condition sales, services, parts, or finance incentives, upon site control or an agreement to renovate or make improvements to a facility; except that voluntary acceptance of such conditions by the franchisee shall not constitute a violation;

(31) Failing to offer to all of its franchisees of the same line-make any consumer rebates, dealer incentives, price or interest rate reduction, or finance terms that the franchisor offers or advertises, or allows its franchisees of the same line-make to offer or advertise;

(32) Offering rebates, cash incentives, or other promotional items for the sale of a vehicle by its franchisees unless: the same rebate, cash incentive, or promotion is offered to all of its franchisees of the same line-make; and any rebate, cash incentive, or promotion that is based on the sale of an individual vehicle is not increased for meeting a performance standard;

(33) Unreasonably discriminating among its franchisees in any program that provides assistance to its franchisees, including internet listings, sales leads, warranty policy adjustments, marketing programs, and dealer recognition programs;

(34) To fail to include in any franchise with a franchisee the following language: "If any provision herein contravenes the laws or regulations of any state or other jurisdiction wherein this agreement is to be performed, or denies access to the procedures, forums, or remedies provided for by such laws or regulations, such provision shall be deemed to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force," or words to that effect;

(35) To withhold, reduce, or delay unreasonably or without just cause delivery of motor vehicle parts and accessories, commodities, or moneys due franchisees;

(36) To use or consider the performance of a franchisee relating to the sale of the franchisor's vehicles or the franchisee's ability to satisfy any minimum sales or market share quota or responsibility relating to the sale of the new vehicles in determining:

(a) The franchisee's eligibility to purchase program, certified, or other used motor vehicles from the franchisor;

(b) The volume, type, or model of program, certified, or other used motor vehicles that a franchisee is eligible to purchase from the franchisor;

(c) The price of any program, certified, or other used motor vehicle that the franchisee purchased from the franchisor; or

(d) The availability or amount of any discount, credit, rebate, or sales incentive that the franchisee is eligible to receive from the franchisor, for the purpose of any program, certified, or other used motor vehicle offered for sale by the franchisor;

(37) To refuse to allocate, sell, or deliver motor vehicles; to charge back or withhold payments or other things of value for which the franchisee is otherwise eligible under a

sales promotion, program, or contest; to prevent a franchisee from participating in any promotion, program, or contest; or to take or threaten to take any adverse action against a franchisee, including charge-backs, reducing vehicle allocations, or terminating or threatening to terminate a franchise because the franchisee sold or leased a motor vehicle to a customer who exported the vehicle to a foreign country or who resold the vehicle, unless the franchisor proves that the franchisee knew or reasonably should have known that the customer intended to export or resell the motor vehicle. There is a rebuttable presumption that the franchisee neither knew nor reasonably should have known of its customer's intent to export or resell the vehicle if the vehicle is titled or registered in any state in this country. A franchisor may not take any action against a franchisee, including reducing its allocations or supply of motor vehicles to the franchisee, or charging back a franchisee for an incentive payment previously paid, unless the franchisor first meets in person, by telephone, or video conference with an officer or other designated employee of the franchisee. At such meeting, the franchisor shall provide a detailed explanation, with supporting documentation, as to the basis for its claim that the franchisee knew or reasonably should have known of the customer's intent to export or resell the motor vehicle. Thereafter, the franchisee shall have a reasonable period, commensurate with the number of motor vehicles at issue, but not less than fifteen days, to respond to the franchisor's claims. If, following the franchisee's response and completion of all internal dispute resolution processes provided through the franchisor, the dispute remains unresolved, the franchisee may file a complaint with the administrative hearing commission within thirty days after receipt of a written notice from the franchisor that it still intends to take adverse action against the franchisee with respect to the motor vehicles still at issue. If a complaint is timely filed, the administrative hearing commission shall notify the franchisor of the filing of the complaint, and the franchisor shall not take any action adverse to the franchisee until the administrative hearing commission renders a final determination, which is not subject to further appeal, that the franchisor's proposed action is in compliance with the provisions of this subdivision. In any hearing under this subdivision, the franchisor has the burden of proof on all issues raised by this subdivision;

(38) To require a franchisee to provide its customer lists or service files to the franchisor, unless necessary for the sale and delivery of a new motor vehicle to a consumer, to validate and pay consumer or dealer incentives, for reasonable marketing purposes or for the submission to the franchisor for any services supplied by the franchisee for any claim for warranty parts or repairs. Nothing in this section shall limit the franchisor's ability to require or use customer information to satisfy any safety or recall notice obligation;

(39) To mandate the use by the franchisee, or condition access to any services offered by the franchisor on the franchisee's use, or condition the acceptance of an order of any product or service offered by the franchisor on the franchisee's use, or condition the acceptance of any claim for payment from the franchisee on the franchisee's use, or condition the franchisee's participation in any program offered by the franchisor, a common entity or an entity controlled by the franchisor on the franchisee's use of any form, equipment, part, tool, furniture, fixture, data processing program or equipment, automotive service equipment, or sign from the franchisor, a vendor recommended by the franchisor, a common entity or an entity controlled by the franchisor if the franchisee is able to obtain the identical or reasonably equivalent product from another vendor;

(40) Establishing any performance standard or program for measuring franchisee performance that may have a material impact on a franchisee that is not fair, reasonable, and equitable, or applying any such standard or program to a franchisee in a manner that is not fair, reasonable, and equitable. Within ten days of a request of a franchisee, a franchisor shall disclose in writing to the franchisee a description of how a performance standard or program is designed and all relevant information used in the application of

the performance standard or program to that franchisee unless the information is available to the franchisee on the franchisor's website;

(41) Establishing or implementing a plan or system for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to its franchisees that is not fair, reasonable, and equitable or modifying an existing plan or system so as to cause the plan or system to be unreasonable, unfair, or inequitable. Within ten days of any request of a franchisee, the franchisor shall disclose in writing to the franchisee the method and mode of distribution of that line-make among the franchisor's franchisees of the same line-make within the same metro area for franchisees located in a metropolitan area and within the county and contiguous counties of any franchisee not located in a metropolitan area; and

(42) To violate any other provision of the MVFP act that adversely impacts a franchisee.

407.828. FRANCHISOR'S DUTIES TO FRANCHISEE — SCHEDULE OF COMPENSATION —

CLAIMS PAYMENT — RETAIL RATE CALCULATION — AUDIT AUTHORITY. — 1. Notwithstanding any provision in a franchise to the contrary, each franchisor shall specify in writing to each of its franchisees in this state the franchisee's obligations for preparation, delivery, and warranty service on its products. The franchisor shall **fairly and reasonably** compensate the franchisee for **preparation, delivery, and** warranty service required of the franchisee by the franchisor. The franchisor shall provide the franchisee with the schedule of compensation to be paid to the franchisee for parts, [work] **labor**, and service, and the time allowance for the performance of the [work] **labor** and service **for the franchisee's obligations for preparation, delivery, and warranty service.**

2. The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service and labor **for the franchisee to meet its obligations for preparation, delivery, and warranty service.** The schedule shall also include **reasonable and adequate** time allowances for the diagnosis and performance of **preparation, delivery, and** warranty [work and] service [shall be reasonable and adequate for the work] to be performed **in a careful and professional manner.** In the determination of what constitutes reasonable compensation **for labor and service** pursuant to this section, the principal factor to be given consideration shall be the prevailing wage rates being [paid] **charged for similar labor and service** by franchisees in the [community] **market** in which the franchisee is doing business, and in no event shall the compensation of a franchisee for [warranty] **labor and service** be less than the rates charged by the franchisee for [like] **similar labor and** service to retail customers for nonwarranty **labor and** service [and repairs], provided that such rates are reasonable. **The primary factor in determining a fair and reasonable compensation for parts under this section shall be the prevailing amount charged for similar parts by other same line-make franchisees in the market in which the franchisee is doing business and the fair and reasonable compensation for parts shall not be less than the amount charged by the franchisee for similar parts to retail customers for nonwarranty parts, provided that such rates are reasonable. If another same line-make franchisee is not available within the market, then the prevailing amount charged for similar parts by other franchisees in the market shall be used as the primary factor.**

3. A franchisor shall [not:

(1) Fail to] perform [any] **all** warranty [obligation];

(2) Fail to] **obligations, including recall notices;** include in written notices of franchisor recalls to new motor vehicle owners and franchisees the expected date by which necessary parts and equipment will be available to franchisees for the correction of the defects; [or

(3) Fail to] **and reasonably** compensate any of the franchisees in this state for repairs [effected] **required** by the recall. **Reasonable compensation for parts, labor, and service shall be determined under subsection 2 of this section.**

4. [All claims made by a franchisee pursuant to this section for labor and parts shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the franchisor within thirty days after their receipt on a proper form generally used by the franchisor and containing the usually required information therein. Any claims not specifically disapproved in writing within thirty days after the receipt of the form shall be considered to be approved and payment shall be made within thirty days. A claim which has been approved and paid may not be charged back to the franchisee unless the franchisor can show that the claim was fraudulent, false, or unsubstantiated, except that a charge back for false or fraudulent claims shall not be made more than two years after payment, and a charge back for unsubstantiated claims shall not be made more than fifteen months after payment. A franchise shall maintain all records of warranty repairs, including the related time records of its employees, for at least two years following payment of any warranty claim.] **No franchisor shall require a franchisee to submit a claim authorized under this section sooner than thirty days after the franchisee completes the preparation, delivery, or warranty service authorizing the claim for preparation, delivery, or warranty service. All claims made by a franchisee under this section shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the franchisor within thirty days after their receipt on a proper form generally used by the franchisor and containing the usually required information therein. Any claims not specifically disapproved in writing within thirty days after the receipt of the form shall be considered to be approved and payment shall be made within fifteen days thereafter. A franchisee shall not be required to maintain defective parts for more than thirty days after submission of a claim.**

5. A franchisor shall compensate the franchisee for franchisor-sponsored sales or service promotion events, **including but not limited to, rebates, programs, or activities in accordance with established written guidelines for such events, programs, or activities, which guidelines shall be provided to each franchisee.**

6. **No franchisor shall require a franchisee to submit a claim authorized under subsection 5 of this section sooner than thirty days after the franchisee becomes eligible to submit the claim.** All claims made by a franchisee pursuant to subsection 5 of this section for promotion events, **including but not limited to rebates, programs, or activities** shall be paid within ten days after their approval. All claims shall be either approved or disapproved by the franchisor within thirty days after their receipt on a proper form generally used by the franchisor and containing the usually required information therein. Any claim not specifically disapproved in writing within thirty days after the receipt of this form shall be considered to be approved and payment shall be made within [thirty] **ten** days. [The franchisor has the right to charge back any claim for twelve months after the later of either the close of the promotion event, program, or activity, or the date of the payment.]

7. **In calculating the retail rate customarily charged by the franchisee for parts, service, and labor, the following work shall not be included in the calculation:**

- (1) **Repairs for franchisor, manufacturer, or distributor special events, specials, or promotional discounts for retail customer repairs;**
- (2) **Parts sold at wholesale;**
- (3) **Engine assemblies and transmission assemblies;**
- (4) **Routine maintenance not covered under any retail customer warranty, such as fluids, filters, and belts not provided in the course of repairs;**
- (5) **Nuts, bolts, fasteners, and similar items that do not have an individual part number;**
- (6) **Tires; and**
- (7) **Vehicle reconditioning.**

8. **If a franchisor, manufacturer, importer, or distributor furnishes a part or component to a franchisee, at no cost, to use in performing repairs under a recall, campaign service action, or warranty repair, the franchisor shall compensate the**

franchisee for the part or component in the same manner as warranty parts compensation under this section by compensating the franchisee at the average markup on the cost for the part or component as listed in the price schedule of the franchisor, manufacturer, importer, or distributor, less the cost for the part or component.

9. A franchisor shall not require a franchisee to establish the retail rate customarily charged by the franchisee for parts, service, or labor by an unduly burdensome or time consuming method or by requiring information that is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations. A franchisee shall not request a franchisor to approve a different labor rate or parts rate more than twice in one calendar year.

10. If a franchisee submits any claim under this section to a franchisor that is incomplete, inaccurate, or lacking any information usually required by the franchisor, then the franchisor shall promptly notify the franchisee, and the time limit to submit the claim shall be extended for a reasonable length of time, not less than five business days following notice by the franchisor to the franchisee, for the franchisee to provide the complete, accurate, or lacking information to the franchisor.

11. (1) A franchisor may only audit warranty, sales, or incentive claims and charge-back to the franchisee unsubstantiated claims for a period of twelve months following payment, subject to all of the provisions of this section. Furthermore, if the franchisor has good cause to believe that a franchisee has submitted fraudulent claims, then the franchisor may only audit suspected fraudulent warranty, sales, or incentive claims and charge-back to the franchisee fraudulent claims for a period of two years following payment, subject to all provisions of this section.

(2) A franchisor shall not require documentation for warranty, sales, or incentive claims more than twelve months after the claim was paid.

(3) Prior to requiring any charge-back, reimbursement, or credit against a future transaction arising out of an audit, the franchisor shall submit written notice to the franchisee along with a copy of its audit and the detailed reason for each intended charge-back, reimbursement, or credit. A franchisee may file a complaint with the administrative hearing commission within thirty days after receipt of any such written notice challenging such action. If a complaint is filed within the thirty days, then the charge-back, reimbursement, or credit shall be stayed pending a hearing and determination of the matter under section 408.822. If the administrative hearing commission determines that any portion of the charge-back, reimbursement, or credit is improper, then that portion of the charge-back, reimbursement, or credit shall be void and not allowed.

407.831. INDEMNIFICATION AND HOLD HARMLESS REQUIREMENTS. — 1. Notwithstanding the terms of any franchise agreement to the contrary, each franchisor, including any successor manufacturer of that franchisor, shall indemnify and hold harmless each franchisee obtaining a new motor vehicle from the franchisor from and against any liability, including reasonable attorney's fees, expert witness fees, court costs, and other expenses incurred in the litigation, so long as such fees and costs are reasonable, that the franchisee may be subjected to by the purchaser of the vehicle because of damage to the motor vehicle that occurred before delivery of the vehicle to the franchisee and that was not disclosed in writing to the franchisee prior to delivery of the vehicle. This indemnity obligation of the franchisor applies regardless of whether the damage falls below the six percent threshold under subsection 2 of this section. The failure of the franchisor to indemnify and hold harmless the franchisee is a violation of this section.

2. If the cost of repairing damage to a new motor vehicle that occurs before delivery to the franchisee's location exceeds six percent of the manufacturer's suggested retail price, as measured by retail repair costs, the franchisee may reject or, if title has passed to the franchisee, require the franchisor who delivered the vehicle to repurchase the vehicle

within ten business days after delivery, unless the damage occurred during shipment and the method of transportation, carrier, or transporter of the motor vehicle was designated by the franchisee. Upon repurchase, the franchisor shall be subrogated to all of the franchisee's rights against the carrier or transporter of the motor vehicle regarding damage. The cost of repairing glass, tires, bumpers, moldings, and audio equipment with identical manufacturer's original equipment shall not be included in determining the cost of repairing damage under this subsection.

407.833. MODIFICATION OF FRANCHISE PROHIBITED, WHEN — COMPLAINT PROCEDURE WITH ADMINISTRATIVE HEARING COMMISSION, WRITTEN DECISION REQUIRED.

— 1. Notwithstanding the term of any franchise to the contrary, a franchisor shall not modify a franchise during the term of the franchise or upon its renewal if the modification substantially and adversely affects the franchisee's rights, obligations, investment, or return on investment without giving ninety days written notice of the proposed modification to the franchisee unless the modification is required by law or court order. Within the ninety-day notice period the franchisee may file with the administrative hearing commission and serve upon the franchisor a complaint for a determination of whether there is good cause for permitting the proposed modification and whether the proposed modification violates any provision of the MVFP act. The administrative hearing commission shall promptly schedule a hearing and decide the matter. Multiple complaints pertaining to the same proposed franchise modification shall be consolidated for hearing. The proposed franchise modification shall not take effect pending the determination of the matter.

2. The burden of proof shall be on the franchisor, except that the burden of proof with regard to the factor set forth in subdivision (3) of this subsection shall be on the franchisee, and the administrative hearing commission may consider any relevant factor including:

- (1) The reasons for the proposed modification;
- (2) Whether the proposed modification is applied to or affects all franchisees in a nondiscriminating manner;
- (3) The degree to which the proposed modification will have a substantial and adverse effect upon the franchisee's rights, investment, or return on investment;
- (4) Whether the proposed modification is in the public interest;
- (5) The degree to which the proposed modification is necessary to the orderly and profitable distribution of products by the franchisor;
- (6) Whether the proposed modification is offset by other modifications beneficial to the franchisee;
- (7) Whether the proposed modification violates any provision of the MVFP act.

3. The decision of the administrative hearing commission shall be in writing and shall contain findings of fact and a determination of whether there is good cause for permitting the proposed modification and whether the proposed modification violates any provision of the MVFP act. The administrative hearing commission shall deliver copies of the decision to the parties personally or by registered mail. If the administrative hearing commission determines that there is not good cause for permitting the proposed modification or that the proposed modification violates any provision of the MVFP act, then the franchisor shall not proceed with the proposed modification.

4. For purposes of this section, the term "modification" includes, but is not limited to, any change, amendment, supplement, deletion, addition, or replacement of any provision of the franchise.

407.835. FRANCHISEE'S RIGHT TO ACTION FOR DAMAGES, INJUNCTION, WHEN — RECOVERY OF DAMAGES — DISPUTE RESTRICTIONS. — 1. Notwithstanding any provision

of the franchise to the contrary, in addition to the administrative relief provided in sections 407.810 to 407.835, any [motor vehicle] franchisee may bring an action in any court of competent jurisdiction against a [motor vehicle] franchisor with whom the franchisee has a franchise, **manufacturer, distributor, or importer** for an act or omission which constitutes [an unlawful practice as defined in section 407.825] **a violation of a franchise or the MVFP act** to recover **actual** damages sustained by reason thereof, **plus actual and reasonable expenses of litigation, including, but not limited to, depositions, transcripts, expert witnesses, and attorney fees**, and, where appropriate, such [motor vehicle] franchisee shall be entitled to injunctive relief, but the remedies set forth in this section shall not be deemed exclusive and shall be in addition to any other remedies permitted by law **or equity**.

2. In any action wherein a franchisor, manufacturer, distributor, or importer has been found liable in damages to any franchisee for a willful violation of a franchise or the MVFP act, then any franchisee so damaged shall be entitled to recover actual damages sustained thereby, plus actual and reasonable expenses of litigation, including, but not limited to, depositions, transcripts, expert witnesses, and attorney fees, and, where appropriate, such motor vehicle franchisee shall be entitled to injunctive relief, but the remedies set forth in this section shall not be deemed exclusive and shall be in addition to any other remedies permitted by law or equity. In addition, a court or jury may award a franchisee punitive damages in such amount as it deems appropriate.

3. In the event of a dispute between a franchisee and a franchisor:

(1) At the option of the franchisee, venue of any civil action, other than a proceeding before the administrative hearing commission, shall be proper in the circuit court of Cole County or the circuit court in the judicial circuit where the franchisee resides or has its principal place of business;

(2) Missouri law shall govern the franchise and the dispute, both substantively and procedurally;

(3) No mandatory arbitration provision in any franchise shall be valid;

(4) No waiver of jury trial in any franchise shall be valid;

(5) No provision in any franchise providing for a franchisee to pay a franchisor's attorney fees, mediation costs, arbitration costs, or litigation costs shall be valid;

(6) No provision in any franchise providing for mediation, arbitration, or litigation to occur outside this state shall be valid; and

(7) Unless otherwise provided in the MVFP act, the franchisor shall have the burden of proving by a preponderance of the evidence that it has acted in good faith, that all required notices were given, that good cause exists for its actions, and that its actions were fair and reasonable giving due regard to the equities of the affected parties, except for the franchisee's damages and expenses of litigation.

Approved June 22, 2010

HB 2201 [SS SCS HCS HB 2201]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Renames the Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act to the Missouri Secure and Fair Enforcement for Mortgage Licensing Act

AN ACT to repeal sections 443.701, 443.703, 443.805, and 475.190, RSMo, and to enact in lieu thereof four new sections relating to financial institutions, with an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 443.701. Citation of law.
- 443.703. Definitions.
- 443.805. License required to broker residential mortgage, exceptions.
- 475.190. Investment of liquid assets of estate of protectee — reports.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 443.701, 443.703, 443.805, and 475.190, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 443.701, 443.703, 443.805, and 475.190, to read as follows:

443.701. CITATION OF LAW. — Sections 443.701 to 443.893 shall be known and may be cited as the "Missouri Secure and Fair Enforcement for Mortgage Licensing [and Residential Mortgage Brokers Licensing] Act".

443.703. DEFINITIONS. — 1. For the purposes of sections 443.701 to 443.893, the following terms mean:

(1) "Advertisement", the attempt by publication, dissemination, or circulation to induce, directly or indirectly, any person to apply for a loan to be secured by residential real estate;

(2) "Affiliate":

(a) Any person who directly controls or is controlled by a residential mortgage loan broker and any other company that is directly affecting activities regulated by sections 443.701 to 443.893 that is controlled by the company that controls the residential mortgage loan broker;

(b) Any person:

a. Who is controlled, directly or indirectly, by a trust or otherwise by or for the benefit of shareholders who beneficially, or otherwise, controls, directly or indirectly, by trust or otherwise, the residential mortgage loan broker or any company that controls the residential mortgage loan broker; or

b. A majority of the directors or trustees of which constitute a majority of the persons holding any such office with the residential mortgage loan broker or any company that controls the residential mortgage loan broker; **or**

(c) Any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the residential mortgage loan broker or any subsidiary or affiliate of the residential mortgage loan broker;

(3) "Board", the residential mortgage board created in section 443.816;

(4) "Borrower", the person or persons who use the services of a licensee to obtain a residential mortgage loan;

(5) "Depository institution", the same meaning as such term is defined in Section 3 of the Federal Deposit Insurance Act, and includes any credit union;

(6) "Director", the director of the division of finance;

(7) "Division", the division of finance within the department of insurance, financial institutions and professional registration;

(8) "Dwelling", the same meaning as such term is defined in the federal Truth In Lending Act;

(9) "Escrow agent", a third party or person charged with the fiduciary obligation for holding escrow funds on a residential mortgage loan pending final payout of such funds in accordance with the terms of the residential mortgage loan;

(10) "Exempt person", the following persons:

(a) Any person that is a depository institution or first-tier subsidiary or service corporation thereof;

(b) Any person engaged solely in commercial mortgage lending or any person making or acquiring commercial construction loans with the person's own funds for the person's own investment;

(c) Any person engaged solely in the business of securing existing loans on the secondary market provided such person does not make decisions about the extension of credit to the borrower;

(d) Any wholesale mortgage lender who purchases existing mortgage loans provided such wholesale lender does not make decisions about the extension of credit to the borrower;

(11) "Federal banking agencies", the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation;

(12) "Full-service office", office and staff in Missouri reasonably adequate to handle efficiently communications, questions, and other matters relating to any application for a new or existing home mortgage loan which the residential mortgage loan broker is brokering, funding, originating, purchasing, or servicing. The management and operation of each full-service office shall include observance of good business practices such as adequate, organized, and accurate books and records, ample phone lines, hours of business, staff training and supervision, and provision for a mechanism to resolve consumer inquiries, complaints, and problems. The director shall promulgate rules with regard to the requirements of this subdivision and shall include an evaluation of compliance with this subdivision in the periodic examination of the residential mortgage loan broker;

(13) "Immediate family member", a spouse, child, sibling, parent, grandparent, or grandchild. Immediate family member includes stepparents, stepchildren, stepsiblings, and adoptive relationships;

(14) "Individual", a natural person;

(15) "Individual mortgage loan servicer", a person who on behalf of a lender or servicer licensed by this state collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due on existing obligations due and owing to the licensed lender or servicer for a residential mortgage loan when the borrower is in default, or in reasonably foreseeable likelihood of default, working with the borrower and the licensed lender or servicer, collects data and makes decisions necessary to modify either temporarily or permanently certain terms of those obligations, or otherwise finalizing collection through the foreclosure process;

(16) "Lender", any person who either lends money for or invests money in residential mortgage loans;

(17) "Licensee", any person licensed under sections 443.701 to 443.893;

(18) "Loan brokering", "mortgage brokering", or "mortgage brokerage service", the act of helping to obtain for an investor or from an investor for a borrower a residential mortgage loan secured by real estate situated in Missouri or assisting an investor or a borrower in obtaining a residential mortgage loan secured by real estate situated in Missouri in return for consideration;

(19) "Loan processor or underwriter", an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under sections 443.701 to 443.893;

(a) For purposes of this definition, clerical or support duties may include activities subsequent to the receipt of a residential mortgage loan application, including:

a. The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

b. Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or

negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms;

(b) For an individual to be considered engaged solely in loan processor or underwriter activities, such individual shall not represent to the public through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator;

(20) "Mortgage loan originator", an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application, or offers or negotiates terms of a residential mortgage loan. Mortgage loan originator does not include:

(a) An individual engaged solely as a loan processor or underwriter except as otherwise provided in sections 443.701 to 443.893;

(b) A person that only performs real estate brokerage activities and is licensed or registered in accordance with Missouri law, unless the person is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator;

(c) A person solely involved in extensions of credit relating to time-share plans, as the term time-share plans is defined in section 101(53D) of Title 11, United States Code;

(d) An individual who is servicing a mortgage loan; and

(e) A person employed by a licensed mortgage broker or loan originator who accepts or receives residential mortgage loan applications;

(21) "Nationwide Mortgage Licensing System and Registry" or "NMLSR", a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators or licensed residential mortgage brokers;

(22) "Nontraditional mortgage product", any mortgage product other than a thirty-year fixed rate mortgage;

(23) "Party to a residential mortgage financing transaction", a borrower, lender, or loan broker in a residential mortgage financing transaction;

(24) "Payments", payment of all or any part of the following: principal, interest and escrow reserves for taxes, insurance, and other related reserves and reimbursement for lender advances;

(25) "Person", a natural person, corporation, company, limited liability company, partnership, or association;

(26) "Purchasing", the purchase of conventional or government-insured mortgage loans secured by residential real estate from either the lender or from the secondary market;

(27) "Real estate brokerage activity", any activity that involves offering or providing real estate brokerage services to the public, including:

(a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(c) Negotiating on behalf of any buyer, seller or lessor any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, but not activity to obtain a residential mortgage loan for a borrower other than bona fide seller financing;

(d) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(e) Offering to engage in any authorized activity or act in any authorized capacity described in paragraph (a), (b), (c), or (d) of this subdivision;

(28) "Residential mortgage board", the residential mortgage board created in section 443.816;

(29) "Residential mortgage financing transaction", the negotiation, acquisition, sale, or arrangement for or the offer to negotiate, acquire, sell, or arrange for a residential mortgage loan or residential mortgage loan commitment;

(30) "Residential mortgage loan", any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling;

(31) "Residential mortgage loan broker", any person, other than an exempt person, engaged in the business of brokering, funding, servicing, or purchasing residential mortgage loans;

(32) "Residential mortgage loan brokerage agreement", a written agreement in which a residential mortgage broker agrees to do either of the following:

(a) Obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan; or

(b) Consider making a residential mortgage loan to the borrower;

(33) "Residential mortgage loan commitment", a written conditional agreement to finance a residential mortgage loan;

(34) "Registered mortgage loan originator", any individual who:

(a) Meets the definition of mortgage loan originator and is an employee of:

a. A depository institution;

b. A subsidiary or service corporation that is:

(i) Owned and controlled by a depository institution; and

(ii) Regulated by a federal banking agency; or

c. An institution regulated by the Farm Credit Administration; and

(b) Is registered with and maintains a unique identifier through, the NMLSR;

(35) "Residential real estate", any real property located in Missouri upon which is constructed or intended to be constructed a dwelling;

(36) "Servicing", the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder or for a residential mortgage loan broker's own account of payments, interests, principal and trust items such as hazard insurance and taxes on a residential mortgage loan and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing;

(37) "Soliciting, processing, placing, or negotiating a residential mortgage loan", for compensation or gain, either directly or indirectly accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower, including but not limited to the submission of credit packages for the approval of lenders, the preparation of residential mortgage loan closing documents, and including a closing in the name of a broker;

(38) "Ultimate equitable owner", a person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, alien business organization, trust, or any other form of business organization regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof;

(39) "Unique identifier", a number or other identifier assigned by protocols established by the NMLSR.

2. The director may define by rule any terms used in sections 443.701 to 443.893 for efficient and clear administration.

443.805. LICENSE REQUIRED TO BROKER RESIDENTIAL MORTGAGE, EXCEPTIONS. —

1. No person shall engage in the business of brokering, funding, servicing or purchasing of residential mortgage loans without first obtaining a license as a residential mortgage loan broker from the director, pursuant to sections 443.701 to 443.893 and the regulations promulgated thereunder. The licensing provisions of sections 443.805 to 443.812 shall not apply to any person engaged solely in commercial mortgage lending or to any person exempt as provided in section 443.703 or pursuant to regulations promulgated as provided in sections 443.701 to 443.893.

2. No person except a licensee or exempt person shall do any business under any name or title or circulate or use any advertising or make any representation or give any information to any person which indicates or reasonably implies activity within the scope of the provisions of sections 443.701 to 443.893.

3. Any exempt entity as defined by section 443.803 on July 7, 2009 shall be exempt from the licensing requirements of this section until June 1, 2010. Any such exempt entities already licensed between July 8, 2009 and June 1, 2010 shall not be eligible for any refund of licensure fees.

475.190. INVESTMENT OF LIQUID ASSETS OF ESTATE OF PROTEE — REPORTS. — 1.

On or after August 28, 2009, the conservator shall invest liquid assets of the estate of the protectee, other than funds needed to meet debts and expenses currently payable, in accordance with the provisions of the Missouri prudent investor act, sections 469.900 to 469.913, RSMo, subject to the following exceptions:

(1) Investment of any part or all of the liquid assets:

(a) In direct obligation of or obligations unconditionally guaranteed as to principal and interest by the United States; or

(b) In interest-bearing accounts and time deposits, including time certificates of deposit, in financial institutions to the extent the account or deposits are insured by the Federal Deposit Insurance Corporation **or the National Credit Union Share Insurance Fund**, shall constitute prudent investments;

(2) If the conservator determines it appropriate to delegate investment and management functions to an agent as provided in section 469.909, RSMo, the agent to whom the delegation is made shall acknowledge in a writing delivered to the conservator that the agent is acting as an investment fiduciary on the account.

2. Every conservator shall make a report at every annual settlement of the disposition made by the conservator of the money belonging to the protectee entrusted to the conservator. If it appears that the money is invested in securities, then the conservator shall report a detailed description of the securities and shall describe any real estate security and state where it is situated, and its value, which report shall be filed in the court. The court shall carefully examine into the report as soon as made, and, if in the opinion of the court the security is insufficient, the court shall make such orders as are necessary to protect the interest of the protectee. The conservator and the conservator's sureties are liable on their bond for any omission to comply with the orders of the court. If the money has not been invested as authorized by law the conservator shall state that fact and the reasons, and shall state that the conservator has been unable to make an investment after diligent effort to do so.

3. If any conservator refuses or neglects to make the report at the time aforesaid, or makes a false report thereof, the conservator and the conservator's sureties are liable on their bond for all loss or damage to the protectee occasioned by reason of the conservator's neglect or refusal so to report, or by making a false report, and the conservator may, on account thereof, be removed from the conservator's trust in the discretion of the court.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to prevent a reduction in mortgage lending in this state, sections 443.701, 443.703, and 443.805 of section

A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 443.701, 443.703, and 443.805 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2010

HB 2226 [CCS SCS HB 2226, HB 1824, HB 1832 & HB 1990]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the regulation and licensing of certain professions

AN ACT to repeal sections 208.215, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.1100, 324.1110, 324.1112, 324.1114, 324.1124, 324.1126, 324.1128, 324.1132, 324.1134, 324.1136, 324.1140, 327.031, 327.041, 327.351, 327.411, 332.011, 334.100, 334.506, 334.613, 334.735, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618, 337.643, 337.700, 337.703, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335, 338.337, 344.010, 344.020, 383.130, and 383.133, RSMo, and section 324.1102 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1102 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, and to enact in lieu thereof eighty-one new sections relating to the regulation of certain professions, with penalty provisions for certain sections.

SECTION

- A. Enacting clause.
 - 23.156. Oath required, oversight division employees — violation, penalty.
 - 208.215. Payer of last resort — liability for debt due the state, ceiling — rights of department, when, procedure, exception — report of injuries required, form, recovery of funds — recovery of medical assistance paid, when — court may adjudicate rights of parties, when.
 - 214.160. Shall invest or loan trust funds.
 - 214.270. Definitions.
 - 214.276. Refusal to issue license — notice — hearing.
 - 214.277. Injunctions, restraining orders, other court remedies available — venue.
 - 214.282. Voidability of contracts, exceptions.
 - 214.283. Notification of burial lands — registry of cemeteries to be kept by division — fee may be charged for copies — surveyor locating unregistered cemetery to file with division, form.
-

-
- 214.300. Nonendowed cemetery may qualify as endowed, when — minimum care and maintenance fund to be established.
 - 214.310. Endowed care and maintenance fund, minimum amount — bond — posting of sign, when, information required.
 - 214.320. Deposits in fund required, amount — annual report, form furnished by division — audits may be conducted, when — exemption from chapter 436 requirements, when.
 - 214.325. Required deposits — deficiency — effect — penalty.
 - 214.330. Endowed care fund held in trust or segregated account — requirements — duties of trustee or independent investment advisor — operator's duties — endowed care fund agreement.
 - 214.335. Contributions to endowed care fund for memorial or monument — deficiency, effect of.
 - 214.340. Report required — content — oath — filing required.
 - 214.345. Sale of cemetery plot — written statement to be given to purchaser — copy of annual report to be available to public.
 - 214.360. Private use of trust funds prohibited.
 - 214.363. Bankruptcy, assignment for benefit of creditors, endowed care fund exempt.
 - 214.365. Cemetery failing to provide maintenance — abandonment or ceasing to operate, division's duties.
 - 214.367. Sale of assets, notice required — prospective purchaser of endowed care cemetery, right to recent audit — right to continue operation, notification by division.
 - 214.387. Burial merchandise or services, deferral of delivery, when — escrow arrangement — distribution of moneys — cancellation.
 - 214.389. Suspension of distribution, when, procedure.
 - 214.392. Division of professional registration, duties and powers in regulation of cemeteries — rulemaking authority.
 - 214.400. Citation of law.
 - 214.410. Violation of law, penalty.
 - 214.500. Cemeteries acquired by a city at tax sales or as nuisances may be sold.
 - 214.504. No liability for new cemetery operators, when — rights of holders of contracts for burial.
 - 214.508. Previous cemetery owner liable, when.
 - 214.512. New cemetery owner not liable for deficiencies, exception.
 - 214.516. Registration as an endowed care cemetery, when — compliance with endowed care cemetery law required.
 - 214.550. Scatter gardens, operation by churches maintaining religious cemeteries — maintenance of garden and records, duty of operator.
 - 324.1100. Definitions.
 - 324.1102. Board created, members, qualifications, terms — fund created, use of moneys.
 - 324.1102. Board created, members, qualifications, terms — fund created, use of moneys.
 - 324.1103. Duties of division.
 - 324.1106. Persons deemed not to be engaging in private investigation business.
 - 324.1106. Persons deemed not to be engaging in private investigation business.
 - 324.1110. Examination is required — background investigation required — waiver of testing, showing required.
 - 324.1112. Denial of a request for licensure, when.
 - 324.1114. Fee required — license for individuals only, agency license must be applied for separately.
 - 324.1118. Licensure required — prohibited acts.
 - 324.1118. Licensure required — prohibited acts.
 - 324.1124. Form of license, contents — posting requirements.
 - 324.1126. Expiration of license, when — renewal — licensee responsible for good conduct of employees.
 - 324.1128. Information regarding criminal offenses, licensee to divulge as required by law — prohibited acts.
 - 324.1132. Advertising requirements.
 - 324.1134. Licensure sanctions permitted, procedure — complaint may be filed with administrative hearing commission — disciplinary action authorized, when.
 - 324.1136. Record-keeping requirements — investigatory powers of the board.
 - 324.1140. Board to license persons qualified to train private investigators, qualifications — application procedure — certificate granted, when — expiration of certificate.
 - 324.1147. Civil and criminal liability, no immunity, when.
 - 327.031. Board established, membership, officers, qualifications of members — how appointed — terms — vacancy, how filled — may sue and be sued — abolishment of council — transfer of powers, duties and funds.
 - 327.041. Board, powers and duties — rules, generally, this chapter, procedure.
 - 327.351. Professional license renewal — expired or suspended license, renewal procedure — professional development requirements for renewal, exception.
 - 327.411. Personal seal, how used, effect of.
 - 332.011. Definitions.
 - 332.098. Expanded-function duties, delegation of — requirements — rulemaking authority.
 - 334.100. Denial, revocation or suspension of license, alternatives, grounds for — reinstatement provisions.
 - 334.506. Physical therapists may provide certain services without prescription or direction of an approved health care provider, when — limitations.
-

- 334.613. Refusal to issue or renew a license, procedure — complaint may be filed, when, requirements for proceedings on — disciplinary action authorized.
- 334.735. Definitions — rules — scope of practice — prohibited activities — board of healing arts to administer licensing program — supervision agreements — duties and liability of physicians.
- 335.075. Verification of licensure prior to hiring.
- 335.081. Exempted practices and practitioners.
- 337.528. Confidentiality of complaint documentation, when — destruction of information permitted, when.
- 337.600. Definitions.
- 337.603. License required — exemptions from licensure.
- 337.615. Education, experience requirements — reciprocity — licenses issued, when.
- 337.618. License expiration, renewal, fees, continuing education requirements.
- 337.643. Licensure required for use of title — practice authorized.
- 337.700. Definitions.
- 337.703. License required, exceptions.
- 337.705. Discrimination prohibited, when.
- 337.706. License required, exception for persons licensed in other state.
- 337.715. Qualifications for licensure, exceptions.
- 337.718. License expiration, renewal fee — temporary permits.
- 337.727. Rulemaking authority.
- 337.739. Committee, members, qualifications, terms, meetings, expenses, removal.
- 338.333. License required, temporary licenses may be granted — out-of-state distributors, reciprocity allowed, when.
- 338.335. Separate licenses required, when — exemptions.
- 338.337. Out-of-state distributors, licenses required, exception.
- 344.010. Definitions.
- 344.020. License required — separate license for assisted living facilities administrators, limitations of license.
- 383.130. Definitions.
- 383.133. Reports by hospitals, ambulatory surgical centers, nursing homes, and licensing authorities, when, contents, limited use, penalty.
 - 1. Adjacent property, hospital may revise premises of campus for licensure purposes.
- 214.290. Minimum endowed care and maintenance fund on election.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.215, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.1100, 324.1110, 324.1112, 324.1114, 324.1124, 324.1126, 324.1128, 324.1132, 324.1134, 324.1136, 324.1140, 327.031, 327.041, 327.351, 327.411, 332.011, 334.100, 334.506, 334.613, 334.735, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618, 337.643, 337.700, 337.703, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335, 338.337, 344.010, 344.020, 383.130, and 383.133, RSMo, and section 324.1102 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1102 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, are repealed and eighty-one new sections enacted in lieu thereof, to be known as sections 23.156, 208.215, 214.160, 214.270, 214.276, 214.277, 214.282, 214.283, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.389, 214.392,

214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.1100, 324.1102, 324.1103, 324.1106, 324.1110, 324.1112, 324.1114, 324.1118, 324.1124, 324.1126, 324.1128, 324.1132, 324.1134, 324.1136, 324.1140, 324.1147, 327.031, 327.041, 327.351, 327.411, 332.011, 332.098, 334.100, 334.506, 334.613, 334.735, 335.075, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618, 337.643, 337.700, 337.703, 337.705, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335, 338.337, 344.010, 344.020, 383.130, 383.133, and 1, to read as follows:

23.156. OATH REQUIRED, OVERSIGHT DIVISION EMPLOYEES — VIOLATION, PENALTY.

— **1. Every employee of the oversight division of the joint committee on legislative research shall, before entering upon his or her duties, take and file in the offices of the secretary of the senate and the chief clerk of the house of representatives an oath:**

(1) To support the constitution of the state, to faithfully demean himself or herself in office;

(2) To not disclose to any unauthorized person any information furnished by any state department, state agency, political subdivision, or instrumentality of the state; and

(3) To not accept as presents or emoluments any pay, directly or indirectly, for the discharge of any act in the line of his or her duty other than the remuneration fixed and accorded to the employee by law.

2. For any violation of his or her oath of office or of any duty imposed upon him or her by this section, any employee shall be guilty of a class A misdemeanor.

208.215. PAYER OF LAST RESORT — LIABILITY FOR DEBT DUE THE STATE, CEILING — RIGHTS OF DEPARTMENT, WHEN, PROCEDURE, EXCEPTION — REPORT OF INJURIES REQUIRED, FORM, RECOVERY OF FUNDS — RECOVERY OF MEDICAL ASSISTANCE PAID, WHEN — COURT MAY ADJUDICATE RIGHTS OF PARTIES, WHEN. — 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made [in] on behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or disability or benefits arising from a health insurance program to which the participant may be entitled. Any health benefit plan as defined in section 376.1350, third party administrator, administrative service organization, and pharmacy benefits manager, shall process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:

(1) For a period of three years from the date services were provided or rendered; however, an entity:

(a) Shall not be required to reimburse for items or services which are not covered under MO HealthNet;

(b) Shall not deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to provide prior authorization;

(c) Shall not be required to reimburse for items or services for which a claim was previously submitted to the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager by the health care provider or the participant and the claim was properly denied by the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager for

procedural reasons, except for timely filing, type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(d) Shall not be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim for subrogation has been filed; and

(e) Shall reimburse for items or services to the same extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it had been properly billed at the point of sale; and

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A [recipient] **participant** who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant

or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a [recipient] **participant** to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of the participant but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. **The computerized records of the MO HealthNet division, certified by the director or his designee, shall be prima facie evidence of proof of moneys expended and the amount of the debt due the state.**

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, [irrespective] **regardless** of whether [or not] an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines

cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the participant's entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The notice of lien shall contain the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be filed with the recorder. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled; or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives

MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

- (1) Actual and legal issues of liability as may exist between the [recipient] **participant** and the liable party;
- (2) Total funds available for settlement; and
- (3) An estimate of the cost to the division of pursuing its claim.

214.160. SHALL INVEST OR LOAN TRUST FUNDS. — The county commission shall invest or loan said trust fund or funds only in United States government, state, county or municipal bonds, [or] **certificates of deposit**, first real estate mortgages, or deeds of trust. They shall use the net income from said trust fund or funds or so much thereof as is necessary to support and maintain and beautify any public or private cemetery or any particular part thereof which may be designated by the person, persons or firm or association making said gift or bequest. In maintaining or supporting the cemetery or any particular part or portion thereof the commission shall as nearly as possible follow the expressed wishes of the creator of said trust fund.

214.270. DEFINITIONS. — As used in sections 214.270 to 214.410, the following terms mean:

- (1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;
 - (2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;
 - (3) "Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn, outer burial container, or similar article which may contain specific lettering, shape, color, or design as specified by the purchaser;
 - (4) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;
 - (5) "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care,
-

maintenance, adornment and administration of a cemetery. Cemetery associations shall be governed by a board of directors. Directors shall serve without compensation;

(6) "Cemetery operator" or "operator", any person who owns, controls, operates or manages a cemetery;

(7) "Cemetery prearranged contract", any contract with a **cemetery or cemetery operator** for [goods and services covered by this chapter which includes a sale of burial merchandise in which delivery of merchandise or a valid warehouse receipt under sections 214.270 to 214.550 is deferred pursuant to written instructions from the purchaser. It shall also mean any contract for goods and services covered by sections 214.270 to 214.550 which includes a sale of burial services to be performed at a future date] **burial merchandise or burial services covered by sections 214.270 to 214.410 which is entered into before the death of the individual for whom the burial merchandise or burial services are intended;**

(8) "Cemetery service" or "burial service", those services performed by a cemetery owner or operator licensed as an endowed care or nonendowed cemetery including setting a monument or marker, setting a tent, excavating a grave, interment, entombment, inurnment, setting a vault, or other related services within the cemetery;

(9) "Columbarium", a building or structure for the inurnment of cremated human remains;

(10) "Community mausoleum", a mausoleum containing a substantial area of enclosed space and having either a heating, ventilating or air conditioning system;

(11) "Department", department of insurance, financial institutions and professional registration;

(12) "Developed acreage", the area which has been platted into grave spaces and has been developed with roads, paths, features, or ornamentations and in which burials can be made;

(13) "Director", director of the division of professional registration;

(14) "Division", division of professional registration;

(15) "Endowed care", the maintenance, repair and care of all burial space subject to the endowment within a cemetery, including any improvements made for the benefit of such burial space. Endowed care shall include the general overhead expenses needed to accomplish such maintenance, repair, care and improvements. Endowed care shall include the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;

(16) "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents itself as offering endowed care and which complies with the provisions of sections 214.270 to 214.410;

(17) "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent, to include any income therefrom, impressed with a trust by the terms of any gift, grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and accepted by any endowed care cemetery operator or his agent. This definition includes the terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like term;

(18) "Escrow account", an account established in lieu of an endowed care fund as provided under section 214.330 or an account used to hold deposits under section 214.387;

(19) "Escrow agent", an attorney, title company, certified public accountant or other person authorized by the division to exercise escrow powers under the laws of this state;

(20) "Escrow agreement", an agreement subject to approval by the office between an escrow agent and a cemetery operator or its agent or related party with common ownership, to receive and administer payments under cemetery prearranged contracts sold by the cemetery operator;

(21) "Family burial ground", a cemetery in which no burial space is sold to the public and in which interments are restricted to persons related by blood or marriage;

(22) "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is restricted solely to its members and their immediate families;

(23) "Garden mausoleum", a mausoleum without a substantial area of enclosed space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

(24) "Government cemetery", or "municipal cemetery", a cemetery owned, operated, controlled or managed by the federal government, the state or a political subdivision of the state, including a county or municipality or instrumentality thereof;

(25) "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for burial of human remains;

(26) "Human remains", the body of a deceased person in any state of decomposition, as well as cremated remains;

(27) "Inurnment", placing an urn containing cremated remains in a burial space;

(28) "Lawn crypt", a burial vault or other permanent container for a casket which is permanently installed below ground prior to the time of the actual interment. A lawn crypt may permit single or multiple interments in a grave space;

(29) "Mausoleum", a structure or building for the entombment of human remains in crypts;

(30) "Niche", a space in a columbarium used or intended to be used for inurnment of cremated remains;

(31) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section of a cemetery for which no endowed care trust fund has been established in accordance with sections 214.270 to 214.410;

(32) "Office", the office of endowed care cemeteries within the division of professional registration;

(33) "Owner of burial space", a person to whom the cemetery operator or his authorized agent has transferred the right of use of burial space;

(34) "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;

(35) "Registry", the list of cemeteries maintained in the division office for public review. The division may charge a fee for copies of the registry;

(36) "Religious cemetery", a cemetery owned, operated, controlled or managed by any church, convention of churches, religious order or affiliated auxiliary thereof in which the sale of burial space is restricted solely to its members and their immediate families;

(37) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land surface;

(38) "Total acreage", the entire tract which is dedicated to or reserved for cemetery purposes;

(39) "Trustee of an endowed care fund", the separate legal entity **qualified under section 214.330** appointed as trustee of an endowed care fund.

214.276. REFUSAL TO ISSUE LICENSE — NOTICE — HEARING. — 1. The division may refuse to issue or renew any license, required pursuant to sections 214.270 to 214.516 for one or any combination of causes stated in subsection 2 of this section. The division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any license, required by sections 214.270 to 214.516 or any person who has failed to surrender his or her license, for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 214.270 to 214.516;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 214.270 to 214.516, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license, issued pursuant to sections 214.270 to 214.516 or in obtaining permission to take any examination given or required pursuant to sections 214.270 to 214.516;

(4) Obtaining or attempting to obtain any fee, charge or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession regulated by sections 214.270 to 214.516;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 214.270 to 214.516, or any lawful rule or regulation adopted pursuant to sections 214.270 to 214.516;

(7) Impersonation of any person holding a license or allowing any person to use his or her license;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 214.270 to 214.516 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 214.270 to 214.516 who is not registered and currently eligible to practice pursuant to sections 214.270 to 214.516;

(11) Issuance of a license based upon a material mistake of fact;

(12) Failure to display a valid license;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Willfully and through undue influence selling a burial space, cemetery services or merchandise.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the division may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five years, or may suspend, or revoke the license or permit **or may impose a penalty allowed by subsection 4 of section 214.410**. No new license shall be issued to the owner or operator of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner.

4. [Operators of all existing endowed care or nonendowed care cemeteries shall, prior to August twenty-eighth following August 28, 2001, apply for a license pursuant to this section. All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270 to 214.516 prior to August twenty-eighth following August 28, 2001, shall be granted a license by the division upon receipt of application.

5.] The division may settle disputes arising under subsections 2 and 3 of this section by consent agreement or settlement agreement between the division and the holder of a license.

Within such a settlement agreement, the division may singly or in combination impose any discipline or penalties allowed by this section or subsection 4 of section 214.410. Settlement of such disputes shall be entered into pursuant to the procedures set forth in section 621.045, RSMo.

5. Use of the procedures set out in this section shall not preclude the application of any other remedy provided by this chapter.

214.277. INJUNCTIONS, RESTRAINING ORDERS, OTHER COURT REMEDIES AVAILABLE — VENUE. — 1. Upon application by the division, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.

2. [Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3.] Any action brought pursuant to this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

214.282. VOIDABILITY OF CONTRACTS, EXCEPTIONS. — 1. Each contract sold by a cemetery operator for cemetery services or for grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches, mausoleums, or other receptacles shall be voidable by the purchaser and deemed unenforceable unless:

(1) It is in writing;

(2) It is executed by a cemetery operator who is in compliance with the licensing provisions of this chapter;

(3) It identifies the contract purchaser and identifies the cemetery services or other items to be provided;

(4) It identifies the name and address of any trustee or escrow agent that will receive payments made pursuant to the contract under the provisions of sections 214.320, 214.330, or 214.387, if applicable;

(5) It contains the name and address of the cemetery operator; and

(6) It identifies any grounds for cancellation by the purchaser or by the cemetery operator on default of payment.

2. If a cemetery prearranged contract does not substantially comply with the provisions of this section, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys' fees.

214.283. NOTIFICATION OF BURIAL LANDS — REGISTRY OF CEMETERIES TO BE KEPT BY DIVISION — FEE MAY BE CHARGED FOR COPIES — SURVEYOR LOCATING UNREGISTERED CEMETERY TO FILE WITH DIVISION, FORM. — 1. Any person, entity, association, city, town, village, county or political subdivision that purchases, receives or holds any real estate used for the burial of dead human bodies, excluding a family burial ground, shall notify the office of the endowed care cemeteries of the name, location and address of such real estate

on a form approved by the office, before October 1, 2010, or within thirty days of purchasing, receiving or holding such land or of being notified by the office of the requirements of this provision. No fee shall be charged for such notification nor shall any penalty be assessed for failure to register. This section shall not be deemed to exempt any operator of an endowed care cemetery or non-endowed care cemetery from being duly licensed as required by this chapter.

2. The division shall establish and maintain a registry of cemeteries and the registry shall be available to the public for review at the division office or copied upon request. The division may charge a fee for copies of the register.

(1) If, in the course of a land survey of property located in this state, a surveyor licensed pursuant to chapter 327, RSMo, locates any cemetery which has not been previously registered, the surveyor shall file a statement with the division regarding the location of the cemetery. The statement shall be filed on a form as defined by division rule. No fee shall be charged to the surveyor for such filing.

(2) Any person, family, group, association, society or county surveyor may submit to the division, on forms provided by the division, the names and locations of any cemetery located in this state for inclusion in the registry. No fee shall be charged for such submissions.

214.300. NONENDOWED CEMETERY MAY QUALIFY AS ENDOWED, WHEN — MINIMUM CARE AND MAINTENANCE FUND TO BE ESTABLISHED. — Any cemetery operator may, after October 13, 1961, qualify to operate a cemetery which has been operated as a nonendowed cemetery for a minimum of two years, as an endowed care cemetery by:

- (1) So electing in compliance with section 214.280;
- (2) Establishing an endowed care **trust** fund in cash of one thousand dollars for each acre in said cemetery with a minimum of five thousand dollars and a maximum of twenty-five thousand dollars;
- (3) Filing the report required by section 214.340.

214.310. ENDOWED CARE AND MAINTENANCE FUND, MINIMUM AMOUNT — BOND — POSTING OF SIGN, WHEN, INFORMATION REQUIRED. — 1. Any cemetery operator who elects to operate a new cemetery as an endowed care cemetery or who represents to the public that perpetual, permanent, endowed, continual, eternal care, care of duration or similar care will be furnished cemetery property sold shall create an endowed care **trust** fund and shall deposit a minimum of twenty-five thousand dollars for cemeteries that have in excess of one hundred burials annually or a minimum of five thousand dollars for cemeteries that have one hundred or less burials annually in such fund before selling or disposing of any burial space in said cemetery, or in lieu thereof such cemetery owner may furnish a surety bond issued by a bonding company or insurance company authorized to do business in this state in the face amount of thirty thousand dollars, and such bond shall run to the office of endowed care cemeteries for the benefit of the care **trust** funds held by such cemetery. This bond shall be for the purpose of guaranteeing an accumulation of twenty-five thousand dollars in such care **trust** fund and also for the further purpose of assuring that the cemetery owner shall provide annual perpetual or endowment care in an amount equal to the annual reasonable return on a secured cash investment of twenty-five thousand dollars until twenty-five thousand dollars is accumulated in said endowed care **trust** funds, and these shall be the conditions of such surety bond; provided, however, the liability of the principal and surety on the bond shall in no event exceed thirty thousand dollars. Provided further, that whenever a cemetery owner which has made an initial deposit to the endowed care **trust** fund demonstrates to the satisfaction of the administrator of the office of endowed care cemeteries that more than twenty-five thousand dollars has been accumulated in the endowed care **trust** fund, the cemetery owner may petition the administrator of the office of endowed care cemeteries for an order to dissolve the surety bond requirement, so long as at least twenty-five thousand dollars always remains in the endowed care **trust** fund.

2. Construction of a mausoleum, lawn crypt, columbarium or crematorium as part of a cemetery then operated as an endowed care cemetery shall not be considered the establishment of a new cemetery for purposes of this section.

3. Any endowed care cemetery which does not maintain a [fully] **adequately** staffed office in the county in which the cemetery is located shall have prominently displayed on the premises a sign clearly stating the operator's name, address and telephone number. If the operator does not reside in the county in which the cemetery is located, the sign shall also state the name, address and telephone number of a resident of the county who is the authorized agent of the operator or the location of an office of the cemetery which is within ten miles of such cemetery. In jurisdictions where ordinances require signs to meet certain specifications, a weatherproof notice containing the information required by this subsection shall be sufficient.

214.320. DEPOSITS IN FUND REQUIRED, AMOUNT — ANNUAL REPORT, FORM FURNISHED BY DIVISION — AUDITS MAY BE CONDUCTED, WHEN — EXEMPTION FROM CHAPTER 436 REQUIREMENTS, WHEN. — 1. An operator of an endowed care cemetery shall establish and deposit in an endowed care **trust** fund not less than the following amounts for burial space sold or disposed of, with such deposits to the endowed care **trust** fund to be made [semiannually] **monthly** on all burial space that has been fully paid for to the date of deposit:

(1) A minimum of fifteen percent of the gross sales price, or twenty dollars, whichever is greater, for each grave space sold;

(2) A minimum of ten percent of the gross sales price of each crypt or niche sold in a community mausoleum, or a minimum of one hundred dollars for each crypt or [ten dollars for each niche sold in a garden mausoleum] **fifty dollars for each niche sold in a community mausoleum, whichever is greater;**

(3) **A minimum of ten percent of the gross sales price of each crypt or niche sold in a garden mausoleum, or a minimum of one hundred dollars for each crypt or twenty-five dollars for each niche sold in a garden mausoleum, whichever is greater;**

(4) A minimum of [seventy-five dollars per grave space for] **ten percent of the gross sales price of each lawn crypt sold or a minimum of seventy-five dollars, whichever is greater.**

2. Notwithstanding the provisions of subdivision (2) of subsection 1 of this section, a cemetery operator who has made the initial deposit in trust as required by sections 214.270 to 214.410 from his own funds, and not from funds deposited with respect to sales of burial space, may deposit only one-half the minimum amounts set forth in subdivisions (1) and (2) of subsection 1 of this section, until he shall have recouped his entire initial deposit. Thereafter, he shall make the minimum deposits required under subdivisions (1), (2) [and] , (3), **and (4)** of subsection 1 of this section.

3. **As required by section 214.340,** each operator of an endowed care cemetery shall[, after August 28, 1990,] file with the division of professional registration, on a form provided by the division, an annual endowed care trust fund report. The operator of any cemetery representing the cemetery, or any portion of the cemetery, as an endowed care cemetery shall make available to the division for inspection or audit at any reasonable time only those cemetery records and trust fund records necessary to determine whether the cemetery's endowed care **trust** fund is in compliance with sections 214.270 to 214.410. Each cemetery operator who has established a [segregated] **escrow** account pursuant to section [214.385] **214.387** shall make available to the division for inspection or audit at any reasonable time those cemetery records and financial institution records necessary to determine whether the cemetery operator is in compliance with the provisions of section [214.385]. All documents, records, and work product from any inspections or audits performed by or at the direction of the division shall remain in the possession of the division of professional registration and shall not be sent to the state board of embalmers and funeral directors. No charge shall be made for such inspections or audits] **214.387.**

4. [If any endowed care cemetery operator conducts the trust fund accounting and record keeping outside of this state, then such operator shall maintain current and accurate copies of such accounting and record keeping within this state and such copies shall be readily available to the division for inspection or audit purposes.

5.] No cemetery operator shall operate or represent to the public by any title, description, or similar terms that a cemetery provides endowed care unless the cemetery is in compliance with the provisions of sections 214.270 to 214.410.

5. A cemetery operator shall be exempt from the provisions of chapter 436 for the sale of cemetery services or for grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches or mausoleums, outer burial containers or other receptacle. A cemetery operator shall be prohibited from adjusting or establishing the sales price of items with the intent of evading the trusting or escrow provisions of this chapter.

214.325. REQUIRED DEPOSITS—DEFICIENCY—EFFECT—PENALTY. — If the deposits to any endowed care trust fund [required by sections 214.270 to 214.410] are less than the total sum required to be set aside and deposited since the effective date of such sections, the cemetery operator shall correct such deficiency by depositing not less than twenty percent of such deficiency each year for five years [following August 28, 1990,] and shall file, on the form provided by the division, a statement outlining the date and amount such deposits were made. If the cemetery operator fails to correct the deficiency **with respect to funds maintained under section 214.330**, the cemetery operator shall thereafter not represent the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be used for endowed care for that cemetery. The cemetery operator shall remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section of the cemetery for which endowed care payments have been collected, subject to the penalties contained in section 214.410, and civil actions as well as subject to any regulations promulgated by the division. **For purposes of this section, the term "deficiency" shall mean a deficiency in the amount required to be deposited pursuant to section 214.320, or a deficiency created by disbursements in excess of what is permitted under section 214.330 and shall not include or be affected by deficiencies or shortages caused by the fluctuating value of investments.**

214.330. ENDOWED CARE FUND HELD IN TRUST OR SEGREGATED ACCOUNT — REQUIREMENTS — DUTIES OF TRUSTEE OR INDEPENDENT INVESTMENT ADVISOR — OPERATOR'S DUTIES — ENDOWED CARE FUND AGREEMENT. — 1. [The endowed care fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state- or federally chartered financial institution authorized to exercise trust powers in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least annually or in other convenient installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the trustee, or the independent investment advisor. An endowed care trust agreement may provide that when the principal in an endowed care trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the cemetery owner, relieving the trustee of all liability regarding investment decisions made by such qualified investment advisor. It shall be the duty of the trustee, or the investment advisor, in the investment of such funds to exercise the diligence and care men of ordinary prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital

investment. The trustee's duties shall be the maintenance of records and the accounting for and investment of moneys deposited by the operator to the endowed care fund. For the purposes of sections 214.270 to 214.410, the trustee or investment advisor shall not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, including, but not limited to, compliance with environmental laws and regulations. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

2. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section then the funds shall be permanently set aside in a segregated bank account which requires the signature of the cemetery owner and either the administrator of the office of endowed care cemeteries, or the signature of a licensed practicing attorney with escrow powers in this state as joint signatories for any distribution from the trust fund. No funds shall be expended without the signature of either the administrator of the office of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in the state- or federally chartered financial institution authorized to do business in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least in annual or semiannual installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the cemetery operator with written approval of either the administrator of the office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty of the cemetery owner in the investment of such funds to exercise the diligence and care a person of reasonable prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The cemetery owner's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

3. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

4. All endowed care funds shall be administered in accordance with an endowed care fund agreement. The endowed care fund agreement shall be subject to review and approval by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding the approval or disapproval of the endowed care fund agreement and regarding any changes required to be made for compliance with this chapter and the rules and regulations promulgated thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the office of endowed care cemeteries. The office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state shall notify the endowed care cemetery in writing of approval and of any required change. Any amendment or change to the endowed care

fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed practicing attorney with escrow powers in this state for review and approval. Said amendment or change shall not be effective until approved by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries or with a licensed practicing attorney with escrow powers in this state and to submit for approval any and all changes, amendment, or revisions of the endowed care fund agreement.

5. No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411, RSMo.] **The endowed care trust fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The contact information for a trust officer or duly appointed representative of the trustee with knowledge and access to the trust fund accounting and trust fund records must be disclosed to the office or its duly authorized representative upon request.**

(1) The trust fund records, including all trust fund accounting records, shall be maintained in the state of Missouri at all times or shall be electronically stored so that the records may be made available in the state of Missouri within fifteen business days of receipt of a written request. The operator of an endowed care cemetery shall maintain a current name and address of the trustee and the records custodian for the endowed care trust fund and shall supply such information to the office, or its representative, upon request;

(2) Missouri law shall control all endowed care trust funds and the Missouri courts shall have jurisdiction over endowed care trusts regardless of where records may be kept or various administrative tasks may be performed.

2. An endowed care trust fund shall be administered in accordance with Missouri law governing trusts, including but not limited to the applicable provisions of chapters 456 and 469, except as specifically provided in this subsection or where the provisions of sections 214.270 to 214.410 provide differently, provided that a cemetery operator shall not in any circumstances be authorized to restrict, enlarge, change, or modify the requirements of this section or the provisions of chapters 456 and 469 by agreement or otherwise.

(1) Income and principal of an endowed care trust fund shall be determined under the provisions of law applicable to trusts, except that the provisions of section 469.405 shall not apply.

(2) No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411.

(3) No right to transfer jurisdiction from Missouri under section 456.1-108 shall exist for endowed care trusts.

(4) All endowed care trusts shall be irrevocable.

(5) No trustee shall have the power to terminate an endowed care trust fund under the provisions of section 456.4-414.

(6) A unitrust election made in accordance with the provisions of chapter 469 shall be made by the cemetery operator in the terms of the endowed care trust fund agreement itself, not by the trustee.

(7) No contract of insurance shall be deemed a suitable investment for an endowed care trust fund.

(8) The income from the endowed care fund may be distributed to the cemetery operator at least annually on a date designated by the cemetery operator, but no later than sixty days following the end of the trust fund year. Any income not distributed within sixty

days following the end of the trust's fiscal year shall be added to and held as part of the principal of the trust fund.

3. The cemetery operator shall have the duty and responsibility to apply the income distributed to provide care and maintenance only for that part of the cemetery designated as an endowed care section and not for any other purpose.

4. In addition to any other duty, obligation, or requirement imposed by sections 214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the maintenance of records related to the trust and the accounting for and investment of moneys deposited by the operator to the endowed care trust fund.

(1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, or the proper expenditure of funds distributed by the trustee to the cemetery operator, including, but not limited to, compliance with environmental laws and regulations.

(2) With respect to cemetery property maintained by endowed care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property.

5. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section, then the funds shall be permanently set aside in an escrow account in the state of Missouri. Funds in an escrow account shall be placed in an endowed care trust fund under subsection 1 if the funds in the escrow account exceed three hundred fifty thousand dollars, unless otherwise approved by the division for good cause. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in a state or federally chartered financial institution authorized to do business in Missouri and located in this state.

(1) The interest from the escrow account may be distributed to the cemetery operator at least in annual or semiannual installments, but not later than six months following the calendar year. Any interest not distributed within six months following the end of the calendar year shall be added to and held as part of the principal of the account.

(2) The cemetery operator shall have the duty and responsibility to apply the interest to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the escrow account shall have been established and not for any other purpose. The principal of such funds shall be kept intact. The cemetery operator's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the escrow account. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator.

(3) The division may approve an escrow agent if the escrow agent demonstrates the knowledge, skill, and ability to handle escrow funds and financial transactions and is of good moral character.

6. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

7. Excluding funds held in an escrow account, all endowed care trust funds shall be administered in accordance with an endowed care trust fund agreement, which shall be submitted to the office by the cemetery operator for review and approval. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries regarding the approval or disapproval of the endowed care trust fund agreement and regarding any changes required to be made for compliance with sections 214.270 to 214.410 and the rules and regulations promulgated thereunder.

8. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries and to submit for prior approval any and all changes, amendments, or revisions of the endowed care trust fund agreement, at least thirty days before the effective date of such change, amendment, or revision.

9. If the endowed care trust fund agreement, or any changes, amendments, or revisions filed with the office, are not disapproved by the office within thirty days after submission by the cemetery operator, the endowed care trust fund agreement, or the related change, amendment, or revision, shall be deemed approved and may be used by the cemetery operator and the trustee. Notwithstanding any other provision of this section, the office may review and disapprove an endowed care trust fund agreement, or any submitted change, amendment, or revision, after the thirty days provided herein or at any other time if the agreement is not in compliance with sections 214.270 to 214.410 or the rules promulgated thereunder. Notice of disapproval by the office shall be in writing and delivered to the cemetery operator and the trustee within ten days of disapproval.

10. Funds in an endowed care trust fund or escrow account may be commingled with endowed care funds for other endowed care cemeteries, provided that the cemetery operator and the trustee shall maintain adequate accounting records of the disbursements, contributions, and income allocated for each cemetery.

11. By accepting the trusteeship of an endowed care trust or accepting funds as an escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits personally to the jurisdiction of the courts of this state and the office of endowed care cemeteries regarding the administration of the trust or escrow account. A trustee or escrow agent shall consent in writing to the jurisdiction of the state of Missouri and the office in regards to the trusteeship or the operation of the escrow account and to the appointment of the office of secretary of state as its agent for service of process regarding any administrative or legal actions relating to the trust or the escrow account, if it has no designated agent for service of process located in this state. Such consent shall be filed with the office prior to accepting funds pursuant to sections 214.270 to 214.410 as trustee or as an escrow agent on a form provided by the office by rule.

214.335. CONTRIBUTIONS TO ENDOWED CARE FUND FOR MEMORIAL OR MONUMENT — DEFICIENCY, EFFECT OF. — 1. Any endowed care cemetery may require a contribution to the endowed care fund or to a separate memorial care fund for each memorial or monument installed on a grave in the cemetery. Such contribution, if required by a cemetery, shall not exceed twenty cents per square inch of base area, and shall be charged on every installation regardless of the person performing the installation. Each contribution made pursuant to a contract or agreement entered into after August 28, 1990, shall be entrusted and administered pursuant to sections 214.270 to 214.410 for the endowed care fund. Each contribution made pursuant to a contract or agreement entered into before August 28, 1990, shall be governed by the law in effect at the time the contract or agreement was entered into.

2. If the deposits to any endowed care trust fund are less than the total sum required to be set aside and deposited since the effective date of such sections, the cemetery operator shall correct such deficiency by depositing not less than twenty percent of such deficiency each year for five years and shall file, on the form provided by the division, a statement outlining the date and amount such deposits were made. If the cemetery operator fails to correct the deficiency with respect to funds maintained under section 214.330, the cemetery operator shall thereafter not represent the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be used for endowed care for that cemetery. The cemetery operator shall remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section of the cemetery for which endowed care payments have been collected, subject to the penalties contained in section 214.410, and civil actions, as well as subject to any regulations promulgated by

the division. For purposes of this section, the term "deficiency" shall mean a deficiency in the amount required to be deposited pursuant to subsection 1 of this section, or a deficiency created by disbursements in excess of what is permitted under section 214.330 and shall not include or be affected by deficiencies or shortages caused by the fluctuating value of investments.

214.340. REPORT REQUIRED — CONTENT — OATH — FILING REQUIRED. — 1. Each operator of an endowed care cemetery shall maintain at an office in the cemetery or, if the cemetery has no office in the cemetery, at an office within a reasonable distance of the cemetery, the reports of the endowed care **trust** fund's operation for the preceding seven years. Each report shall contain, at least, the following information:

(1) Name and address of the trustee of the endowed care **trust** fund and the depository, if different from the trustee;

(2) Balance per previous year's report;

(3) Principal contributions received since previous report;

(4) Total earnings since previous report;

(5) Total distribution to the cemetery operator since the previous report;

(6) Current balance;

(7) A statement of all assets listing cash, real or personal property, stocks, bonds, and other assets, showing cost, acquisition date and current market value of each asset;

(8) Total expenses, excluding distributions to cemetery operator, since previous report; and

(9) A statement of the cemetery's total acreage and of its developed acreage.

2. Subdivisions (1) through (7) of the report described in subsection 1 above shall be certified to under oath as complete and correct by a corporate officer of the trustee. Subdivision (8) of such report shall be certified under oath as complete and correct by an officer of the cemetery operator. Both the trustee and cemetery operator or officer shall be subject to the penalty of making a false affidavit or declaration.

3. The report shall be placed in the cemetery's office within ninety days of the close of the trust's fiscal year. A copy of this report shall be filed by the cemetery operator with the division of professional registration as condition of license renewal as required by subsection 4 of section 214.275. [The report shall not be sent to the state board of embalmers and funeral directors.]

4. Each cemetery operator who establishes [a segregated] **an escrow or trust** account pursuant to [subsection 1 of section 214.385] **section 214.387** shall file with the report required under subsection 1 of this section [a segregated] **an escrow or trust** account report that shall provide the following information:

(1) The [number of monuments, markers and memorials] **total face value of all contracts for burial merchandise and services** that have been deferred for delivery by purchase designation; **and**

(2) [The aggregate wholesale cost of all such monuments, markers and memorials; and

(3)] The amount on deposit in the [segregated] **escrow or trust** account established pursuant to section [214.385] **214.387**, and the account number **in the case of an escrow account**.

214.345. SALE OF CEMETERY PLOT — WRITTEN STATEMENT TO BE GIVEN TO PURCHASER — COPY OF ANNUAL REPORT TO BE AVAILABLE TO PUBLIC. — 1. Any cemetery operator who negotiates the sale of burial space in any cemetery located in this state shall provide each prospective owner of burial space a written statement, which may be a separate form or a part of the sales contract, which states and explains in plain language that the burial space is part of an endowed care cemetery; that the cemetery has established and maintains the endowed care **trust** fund required by law; and that the information regarding the fund described in section 214.340 is available to the prospective purchaser. If the burial space is in a nonendowed

cemetery, or in a nonendowed section of an endowed care cemetery, the cemetery operator shall state he has elected not to establish an endowed care **trust** fund.

2. The operator of each endowed care cemetery shall, upon request, give to the public for retention a copy of the endowed care **trust** fund annual report prepared pursuant to the provisions of subsection 1 of section 214.340.

214.360. PRIVATE USE OF TRUST FUNDS PROHIBITED. — No cemetery operator, nor any director, officer or shareholder of any cemetery may borrow or in any other way make use of the endowed care **trust** funds for his own use, directly or indirectly, or for furthering or developing his or any other cemetery, nor may any trustee lend or make such funds available for said purpose or for the use of any operator or any director, officer or shareholder of any cemetery.

214.363. BANKRUPTCY, ASSIGNMENT FOR BENEFIT OF CREDITORS, ENDOWED CARE FUND EXEMPT. — In the event of a cemetery's bankruptcy, insolvency, or assignment for the benefit of creditors, the endowed care **trust** funds shall not be available to any creditor as assets of the cemetery's owner or to pay any expenses of any bankruptcy or similar proceeding, but shall be retained intact to provide for the future maintenance of the cemetery.

214.365. CEMETERY FAILING TO PROVIDE MAINTENANCE — ABANDONMENT OR CEASING TO OPERATE, DIVISION'S DUTIES. — Prior to any action as provided in subsection 2 of section 214.205, and when the division has information that a [public] cemetery is not providing maintenance and care, has been abandoned, or has ceased operation, the division may investigate the cemetery to determine the cemetery's current status. If the division finds evidence that the cemetery is abandoned, is not conducting business, or is not providing maintenance and care, the division may apply to the circuit court for appointment as receiver, trustee, or successor in trust.

214.367. SALE OF ASSETS, NOTICE REQUIRED — PROSPECTIVE PURCHASER OF ENDOWED CARE CEMETERY, RIGHT TO RECENT AUDIT — RIGHT TO CONTINUE OPERATION, NOTIFICATION BY DIVISION. — **1.** Prior to selling or otherwise disposing of a majority of the business assets of a cemetery, or a majority of its stock or other ownership interest, if a corporation or other organized business entity, the cemetery operator shall provide written notification to the division of its intent at least thirty days prior to the date set for the transfer, or the closing of the sale, or the date set for termination of its business. Such notice is confidential and shall not be considered a public record subject to the provisions of chapter 610 until the sale of the cemetery has been effectuated. Upon receipt of the written notification, the division may take reasonable and necessary action to determine that the cemetery operator has made proper plans to assure that trust funds or funds held in an escrow account for or on behalf of the cemetery will be set aside and used as provided in sections 214.270 to 214.410, including, but not limited to, an audit or examination of books and records. The division may waive the requirements of this subsection or may shorten the period of notification for good cause or if the division determines in its discretion that compliance with its provisions are not necessary.

2. A cemetery operator may complete the sale, transfer, or cessation if the division does not disapprove the transaction within thirty days after receiving notice. Nothing in this section shall be construed to restrict any other right or remedy vested in the division or the attorney general.

3. A prospective purchaser or transferee of [any endowed care] **endowed or unendowed** cemetery, with the written consent of the cemetery operator, may obtain a copy of the cemetery's most recent audit or inspection report from the division. The division shall inform the prospective purchaser or transferee, within thirty days, whether the cemetery may continue to operate and be represented as [an endowed care] **a** cemetery.

214.387. BURIAL MERCHANDISE OR SERVICES, DEFERRAL OF DELIVERY, WHEN — ESCROW ARRANGEMENT — DISTRIBUTION OF MONEYS — CANCELLATION. — 1. [Upon written instructions from the purchaser of burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is canceled. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided.

2. Upon written instructions from the purchaser of an interment, entombment, or inurnment cemetery service, a cemetery may defer performance of such service to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the agreement is paid in full, deposits from its own funds an amount equal to eighty percent of the published retail price into a trustee account. Funds deposited in a trustee account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the service is made or the agreement for the purchase of the service is canceled. No withdrawals may be made from the trustee account established pursuant to this section and section 214.385 except as provided herein. Money in this account shall be invested utilizing the prudent man theory and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

3. Upon the delivery of the interment, entombment, or inurnment cemetery service agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase of such service, the cemetery operator may withdraw from the trustee account an amount equal to (i) the market value of the trustee account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the aggregate deposit of all services which are paid in full but not delivered. The trustee account may be inspected or audited by the division.

4. The provisions of this section shall apply to all agreements entered into after August 28, 2002.] **With the exception of sales made pursuant to section 214.385, all sales of prearranged burial merchandise and services shall be made pursuant to this section.**

2. Upon written instructions from the purchaser of burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs associated with the sale, not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is cancelled, and fees and costs associated with the maintenance of the trust or escrow arrangement shall be charged to these funds. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided.

3. Each escrow arrangement must comply with the following:

(1) The escrow agent shall be located in Missouri, authorized to exercise escrow powers, and shall maintain the escrow records so that they may be accessed and produced for inspection within five business days of the agent's receipt of a written request made by

the office or its duly authorized representative. A cemetery operator shall not serve as an escrow agent for the cemetery operator's account nor shall the escrow agent be employed by or under common ownership with the cemetery operator. The cemetery operator shall maintain a current name and address for the escrow agent with the office, and shall obtain written approval from the office before making any change in the name or address of the escrow agent. Notwithstanding any other provision of law, information regarding the escrow agent shall be deemed an open record;

(2) The escrow account funds shall be maintained in depository accounts at a Missouri financial institution that provides Federal Deposit Insurance Corporation or comparable deposit insurance;

(3) The escrow arrangement shall be administered by the escrow agent pursuant to an agreement approved by the office under the same filing and approval procedure as that set forth for endowed care trust fund agreements in section 214.330;

(4) The operator shall establish a separate depository account for each cemetery prearranged contract administered pursuant to this subsection;

(5) The division may promulgate by rule a form escrow agreement to be used by a cemetery operator operating pursuant to this section.

4. Each trust must comply with the following:

(1) The trustee shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri, provided that a foreign financial institution must be approved by the office;

(2) The trust fund records, including all trust fund accounting records, shall either be maintained in the state of Missouri or shall be electronically stored so that the records may be made available within fifteen business days of the trustee's receipt of a written request made by the office or its duly authorized representative. The cemetery operator shall maintain a current name and address of the trustee and the records custodian and shall supply such information to the office or its representative upon request;

(3) The principal of such funds shall be appropriately invested pursuant to the prudent investor rule under chapter 469, provided that no trust funds shall be invested in any term insurance product;

(4) Payments regarding two or more cemetery prearranged contracts may be deposited into and commingled in the same trust, so long as adequate records are made available to the trustee to account for cemetery prearranged contracts on an individual basis with regard to deposits, earnings, distributions, and any taxes;

(5) Trust instruments shall be subject to the same filing and approval procedure as that set forth for endowed care trust fund agreements under section 214.330;

(6) A trustee may commingle the funds from trusts of unrelated cemetery operators for investment purposes if the trustee has adequate accounting for the allocations, disbursements, payments, and income among the participating trusts.

5. The income from escrow accounts, after payment of expenses associated with the arrangement, shall be distributed to the cemetery operator. All other distributions from trusts and escrow accounts shall be made pursuant to forms approved by the office. For performance of a cemetery prearranged contract, a certificate of performance form signed by the cemetery operator shall be required for distribution. For cancellation of a cemetery prearranged contract, a certificate of cancellation form signed by the cemetery operator and the purchaser shall be required for distribution.

6. A cemetery prearranged contract is subject to cancellation as follows:

(1) At any time before the final disposition of the deceased, or before the services or merchandise described in this section are provided, the purchaser may cancel the contract without cause by delivering written notice thereof to the operator. Within fifteen days after its receipt of such notice, the cemetery operator shall pay to the purchaser a net amount equal to eighty percent of all payments made under the contract. The cemetery

operator shall be entitled to keep one-half of the interest earned on trust funds. Upon delivery of the purchaser's receipt for such payment to the escrow agent or trustee, the escrow agent or trustee shall distribute to the cemetery operator from the escrow account or trust an amount equal to all deposits made into the escrow account or trust for the contract;

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if a purchaser is eligible, becomes eligible, or desires to become eligible, to receive public assistance under chapter 208 or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel the contract pursuant to the provisions of subdivision (1) of this section, which waiver and renunciation shall be made in writing and delivered to the cemetery operator;

(3) Notwithstanding the provisions of subdivision (1) of this subsection, any purchaser, within thirty days of receipt of the executed contract, may cancel the contract without cause by delivering written notice thereof to the cemetery operator, and receive a full refund of all payments made on the contract;

(4) Notwithstanding the provisions of subdivision (1) of this subsection, once any purchase order is entered for the production or manufacture of burial merchandise, per the purchaser's written request, the purchaser's obligation to pay for said burial merchandise shall be noncancellable;

(5) No funds subject to a purchaser's right of cancellation hereunder shall be subject to the claims of the cemetery operator's creditors.

7. Burial merchandise sold through a contract with a cemetery or cemetery operator which is entered into after the death of the individual for whom the burial merchandise is intended shall not be subject to any trusting or escrow requirement of this section.

8. This section shall apply to all agreements entered into after August 28, 2010.

214.389. SUSPENSION OF DISTRIBUTION, WHEN, PROCEDURE. — 1. The division may direct a trustee, financial institution, or escrow agent to suspend distribution from an endowed care trust fund or escrow account if the cemetery operator does not have a current and active cemetery operator license, has failed to file an annual report, or if, after an audit or examination, the division determines there is a deficiency in an endowed care trust fund or escrow account maintained under section 214.330 and the cemetery operator has failed to file a corrective action plan detailing how the deficiency shall be remedied. For purposes of this section, a deficiency shall only be deemed to exist if, after an audit or examination, the division determines a cemetery operator has failed to deposit the total aggregate of funds required to be deposited in trust or an escrow account pursuant to section 214.320 or subsection 1 of section 214.335, or has received disbursements from the trust or escrow account in excess of what is permitted under section 214.330. No deficiency shall be deemed to be created by fluctuations in the value of investments held in trust or escrow.

2. The division shall provide written notification to the cemetery operator and the trustee, financial institution, or escrow agent within fourteen days of discovering a potential violation as described in this section. Upon receipt of written notification from the division, the cemetery operator shall have sixty days to cure any alleged violations or deficiencies cited in the notification without a suspension of distribution. If, after the sixty-day time period, the division feels the cemetery has not cured the alleged violations or deficiencies cited in the notification, the division may send a notice of suspension to the cemetery operator that the division is ordering a suspension of distribution as described in this section. In the event of a suspension of distribution, the amount of any distribution suspended shall become principal, with credit against the deficiency, unless the cemetery operator files an appeal with a court of competent jurisdiction or with the administrative hearing commission, as provided herein. In the event of an appeal, a cemetery operator

may request the court or administrative hearing commission stay the suspension of distribution after a showing of necessity and good cause or authorize payment from the endowed care trust fund or escrow account for necessary expenses from any amount subject to distribution.

3. Upon receipt of an order from the division suspending distribution pursuant to this section, a trustee, financial institution, or escrow agent shall immediately suspend distribution as required by the order. A trustee, financial institution, or escrow agent shall be exempt from liability for failure to distribute funds as ordered by the division.

4. A cemetery operator may appeal an order suspending distribution pursuant to this section to the administrative hearing commission. The administrative hearing commission shall receive notice of such appeal within thirty days from the date the notice of suspension was mailed by certified mail. Failure of a person whose license was suspended to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the suspension. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission pursuant to chapter 621.

5. A cemetery operator may apply for reinstatement of distributions upon demonstration that the deficiencies or other problems have been cured or that the operator has otherwise come into compliance.

6. The division may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

214.392. DIVISION OF PROFESSIONAL REGISTRATION, DUTIES AND POWERS IN REGULATION OF CEMETERIES — RULEMAKING AUTHORITY. — 1. The division shall:

(1) Recommend prosecution for violations of the provisions of sections 214.270 to 214.410 to the appropriate prosecuting, circuit attorney or to the attorney general;

(2) Employ, within limits of the funds appropriated, such employees as are necessary to carry out the provisions of sections 214.270 to 214.410;

(3) Be allowed to convey full authority to each city or county governing body the use of inmates controlled by the department of corrections and the board of probation and parole to care for abandoned cemeteries located within the boundaries of each city or county;

(4) Exercise all budgeting, purchasing, reporting and other related management functions;

(5) Be authorized, within the limits of the funds appropriated to conduct investigations, examinations, or audits to determine compliance with sections 214.270 to 214.410;

(6) The division may promulgate rules necessary to implement the provisions of sections 214.270 to 214.516, including but not limited to:

(a) Rules setting the amount of fees authorized pursuant to sections 214.270 to 214.516. The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and expense of administering sections 214.270 to 214.516. All moneys received by the division pursuant to sections 214.270 to 214.516 shall be collected by the director who shall transmit such moneys to the department of revenue for deposit in the state treasury to the credit of the endowed care cemetery audit fund created in section 193.265, RSMo;

(b) Rules to administer the inspection and audit provisions of the endowed care cemetery law;

(c) Rules for the establishment and maintenance of the cemetery registry pursuant to section 214.283.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

214.400. CITATION OF LAW. — Sections 214.270 to 214.410 shall be known as the "Cemetery Endowed Care **Trust** Fund Law".

214.410. VIOLATION OF LAW, PENALTY. — 1. Any cemetery operator who shall willfully violate any provisions of sections 214.270 to 214.410 for which no penalty is otherwise prescribed shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed five hundred dollars or shall be confined not more than six months or both.

2. Any cemetery operator who shall willfully violate any provision of [section] **sections** 214.320, 214.330, 214.335, 214.340, 214.360 [or] , 214.385, **or 214.387** shall be deemed guilty of a class D felony and upon conviction thereof shall be fined a sum not to exceed ten thousand dollars or shall be confined not more than five years or both. This section shall not apply to cemeteries or cemetery associations which do not sell lots in the cemetery.

3. Any trustee who shall willfully violate any applicable provisions of sections 214.270 to 214.410 shall have committed an unsafe and unsound banking practice and shall be penalized as authorized by chapters 361 and 362, RSMo. This subsection shall be enforced exclusively by the Missouri division of finance for state chartered institutions and the Missouri attorney general for federally chartered institutions.

4. Any person who shall willfully violate any provision of section 214.320, 214.330, 214.335, 214.340, 214.360 or 214.385 or violates any rule, regulation or order of the division may, in accordance with the regulations issued by the division, be assessed an administrative penalty by the division. The penalty shall not exceed five thousand dollars for each violation and each day of the continuing violation shall be deemed a separate violation for purposes of administrative penalty assessment. However, no administrative penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation. Penalty assessments received shall be deposited in the endowed care cemetery audit fund created in section 193.265, RSMo.

214.500. CEMETERIES ACQUIRED BY A CITY AT TAX SALES OR AS NUISANCES MAY BE SOLD. — Any cemetery located in a city [not within a county,] which has become the property of such city pursuant to section 214.205 or a public tax sale may be sold to another cemetery operator or a not-for-profit corporation which is unrelated to the previous cemetery operator.

214.504. NO LIABILITY FOR NEW CEMETERY OPERATORS, WHEN — RIGHTS OF HOLDERS OF CONTRACTS FOR BURIAL. — Any cemetery operator who purchases a cemetery from a city [not within a county] pursuant to sections 214.500 to 214.516 shall not be liable for any wrongful interments or errors made in the sale of plots prior to the cemetery operator's purchase of the cemetery, nor shall such cemetery operator be liable for multiple ownership of plots sold by such cemetery operator due to a lack of adequate records in such cemetery operator's possession at the time of such cemetery operator's purchase of such cemetery from the city, provided the cemetery operator offers a plot of equal value for the interment, if such party can prove ownership of the right to bury a person by presenting a contract for the right to burial.

214.508. PREVIOUS CEMETERY OWNER LIABLE, WHEN. — Any cemetery operator who purchases a cemetery from a city [not within a county] shall not be held liable or responsible for any conditions existing or actions taken which occurred prior to the cemetery operator's purchase from such city; except that, the exemption provided in this section shall not relieve any previous owner or wrongdoer for their actions related to such cemetery.

214.512. NEW CEMETERY OWNER NOT LIABLE FOR DEFICIENCIES, EXCEPTION. — Any subsequent cemetery owner after a city [not within a county] shall be exempt from the provisions of section 214.325 and section 214.410 for any deficiency existing prior to such city's ownership; except that, such exemption shall not relieve any previous cemetery owners or wrongdoers from the provisions of such sections.

214.516. REGISTRATION AS AN ENDOWED CARE CEMETERY, WHEN — COMPLIANCE WITH ENDOWED CARE CEMETERY LAW REQUIRED. — Any cemetery owner subsequent to a city [not within a county], regardless of whether such cemetery was previously registered as an endowed care cemetery, held itself out to be an endowed care cemetery or was a nonendowed care cemetery, shall comply with section 214.310 and register such cemetery as an endowed care cemetery as if it were a newly created cemetery with no interments at the time of such registration. Any contracts for the right of burial sold after compliance with section 214.310 and all subsequent action of a subsequent cemetery owner shall comply fully with the provisions of sections 214.270 to 214.410.

214.550. SCATTER GARDENS, OPERATION BY CHURCHES MAINTAINING RELIGIOUS CEMETERIES — MAINTENANCE OF GARDEN AND RECORDS, DUTY OF OPERATOR. — 1. For purposes of this section, the following terms mean:

(1) "Cremains", the [ashes that remain after cremation of a human corpse] **remains of a human corpse after cremation;**

(2) "Operator", a church that owns and maintains a religious cemetery;

(3) "Religious cemetery", a cemetery owned, operated, controlled, or managed by any church that has or would qualify for federal tax-exempt status as a nonprofit religious organization pursuant to section 501(c) of the Internal Revenue Code as amended;

(4) "Scatter garden", a location for the spreading of cremains set aside within a cemetery.

2. It shall be lawful for any operator of a religious cemetery adjacent to a church building or other building regularly used as a place of worship to establish a scatter garden for the purpose of scattering human cremains.

3. The operator of any religious cemetery containing a scatter garden shall maintain, protect, and supervise the scatter garden, and shall be responsible for all costs incurred for such maintenance, protection, and supervision. Such operator shall also maintain a record of all cremains scattered in the scatter garden that shall include the name, date of death, and Social Security number of each person whose cremains are scattered, and the date the cremains were scattered.

4. A scatter garden established pursuant to this section shall be maintained by the operator of the religious cemetery for as long as such operator is in existence. Upon dissolution of such operator, all records of cremains shall be transferred to the clerk of the city, town, or village in which the scatter garden is located, or if the scatter garden is located in any unincorporated area, to the county recorder.

324.1100. DEFINITIONS. — As used in sections 324.1100 to 324.1148, the following terms mean:

(1) "Board", the board of private investigator examiners established in section 324.1102;

(2) "Client", any person who engages the services of a private investigator;

(3) "Department", the department of insurance, financial institutions and professional registration;

(4) **"Director", the director of the division of professional registration;**

(5) **"Division", the division of professional registration;**

(6) "Law enforcement officer", a law enforcement officer as defined in section 556.061, RSMo;

[(5)] (7) "Organization", a corporation, trust, estate, partnership, cooperative, or association;

[(6)] (8) "Person", an individual or organization;

[(7)] (9) "Private investigator", any person who receives any consideration, either directly or indirectly, for engaging in the private investigator business;

[(8)] (10) "Private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the private investigator business;

[(9)] (11) "Private investigator business", the furnishing of, making of, or agreeing to make, any investigation for the purpose of obtaining information pertaining to:

(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) The location, disposition, or recovery of lost or stolen property;

(d) Securing evidence to be used before any court, board, officer, or investigating committee;

(e) Sale of personal identification information to the public; or

(f) The cause of responsibility for libel, losses, accident, or damage or injury to persons or property or protection of life or property.

324.1102. BOARD CREATED, MEMBERS, QUALIFICATIONS, TERMS — FUND CREATED, USE OF MONEYS. — 1. The "Board of Private Investigator Examiners" is hereby created within the division of professional registration. The board shall be a body corporate and may sue and be sued.

2. The board shall be composed of five members, including two public members, appointed by the governor with the advice and consent of the senate. Except for the public members, each member of the board shall be a citizen of the United States, a resident of Missouri **for at least one year, a registered voter**, at least thirty years of age, and shall have been actively engaged in the private investigator business for the previous five years. No more than one private investigator board member may be employed by, or affiliated with, the same private investigator agency. The initial private investigator board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after the effective date of the rules promulgated under sections 324.1100 to 324.1148 regarding licensure. The public members shall each be a **citizen of the United States, a resident of Missouri, a registered voter** and a person who is not and never was a member of any profession licensed or regulated under sections 324.1100 to 324.1148 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 324.1100 to 324.1148, or an activity or organization directly related to any profession licensed or regulated under sections 324.1100 to 324.1148. The duties of the public members shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The members shall be appointed for terms of [two] **five** years, except those first appointed, in which case two members, who shall be private investigators, shall be appointed for terms of four years, two members shall be appointed for terms of three years, and one member shall be appointed for a one-year term. Any vacancy on the board shall be filled for the

unexpired term of the member and in the manner as the first appointment. [No member may serve consecutive terms.]

4. The members of the board may receive compensation, as determined by the director for their services, if appropriate, and shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

5. There is hereby created in the state treasury the "Board of Private Investigator Examiners Fund", which shall consist of money collected under sections 324.1100 to 324.1148. The state treasurer shall be custodian of the fund and [shall] **may** approve disbursements from the fund in accordance with the provisions of sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 324.1100 to 324.1148. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

[324.1102. BOARD CREATED, MEMBERS, QUALIFICATIONS, TERMS — FUND CREATED, USE OF MONEYS. — 1. The "Board of Private Investigator Examiners" is hereby created within the division of professional registration. The board shall be a body corporate and may sue and be sued.

2. The board shall be composed of five members, including two public members, appointed by the governor with the advice and consent of the senate. Except for the public members, each member of the board shall be a citizen of the United States, a resident of Missouri, at least thirty years of age, and shall have been actively engaged in the private investigator business for the previous five years. No more than one private investigator board member may be employed by, or affiliated with, the same private investigator agency. The initial private investigator board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after the effective date of the rules promulgated under sections 324.1100 to 324.1148 regarding licensure. The public members shall each be a registered voter and a person who is not and never was a member of any profession licensed or regulated under sections 324.1100 to 324.1148 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 324.1100 to 324.1148, or an activity or organization directly related to any profession licensed or regulated under sections 324.1100 to 324.1148. The duties of the public members shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The members shall be appointed for terms of two years, except those first appointed, in which case two members, who shall be private investigators, shall be appointed for terms of four years, two members shall be appointed for terms of three years, and one member shall be appointed for a one-year term. Any vacancy on the board shall be filled for the unexpired term of the member and in the manner as the first appointment. No member may serve consecutive terms.

4. The members of the board may receive compensation, as determined by the director for their services, if appropriate, and shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

5. There is hereby created in the state treasury the "Board of Private Investigator Examiners Fund", which shall consist of money collected under sections 324.1100 to 324.1148. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with the provisions of sections 30.170 and 30.180, RSMo. Upon appropriation,

money in the fund shall be used solely for the administration of sections 324.1100 to 324.1148. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.]

324.1103. DUTIES OF DIVISION. — For the purposes of sections 324.1100 to 324.1148, the division shall:

- (1) Employ board personnel, within the limits of the appropriations for that purpose as established in sections 324.1100 to 324.1148;**
- (2) Exercise all administrative functions;**
- (3) Deposit all fees collected under sections 324.1100 to 324.1148 by transmitting such funds to the department of revenue for deposit in the state treasury to the credit of the board of private investigators examiners fund.**

324.1106. PERSONS DEEMED NOT TO BE ENGAGING IN PRIVATE INVESTIGATION BUSINESS. — The following persons shall not be deemed to be engaging in the private investigator business:

- (1) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;
- (2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;
- (3) Any employee, agent, or independent contractor employed by any government agency, division, or department of the state whose work relationship is established by a written contract while working within the scope of employment established under such contract;
- (4) An attorney performing duties as an attorney, or an attorney's paralegal or employee retained by such attorney assisting in the performance of such duties or investigation on behalf of such attorney;
- (5) A certified public accountant performing duties as a certified public accountant who holds an active license issued by any state and the employees of such certified public accountant or certified public accounting firm assisting in the performance of duties or investigation on behalf of such certified public accountant or certified public accounting firm;**
- (6) A collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or the equivalent thereof;
- ~~[(6)]~~ (7) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;
- ~~[(7)]~~ (8) Any bank subject to the jurisdiction of the director of the division of finance of the state of Missouri or the comptroller of currency of the United States;
- ~~[(8)]~~ (9) An insurance adjuster. For the purposes of sections 324.1100 to 324.1148, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;
- ~~[(9)]~~ (10) Any private fire investigator whose primary purpose of employment is the determination of the origin, nature, cause, or calculation of losses relevant to a fire;
- ~~[(10)]~~ (11) Employees of ~~[a not-for-profit]~~ an organization, **whether for-profit or not-for-profit**, or its affiliate or subsidiary, whether for-profit or not-for-profit, whose investigatory activities are limited to making and processing requests for criminal history records and other

background information from state, federal, or local databases, including requests for employee background check information under section 660.317, RSMo;

~~[(11)]~~ **(12)** Any real estate broker, real estate salesperson, or real estate appraiser acting within the scope of his or her license;

~~[(12)]~~ **(13)** Expert witnesses who have been certified or accredited by a national or state association associated with the expert's scope of expertise;

~~[(13)]~~ **(14)** Any person who does not hold themselves out to the public as a private investigator ~~[but is under]~~ **and is exclusively employed by or under exclusive** contract with a state agency or political subdivision;

~~[(14)]~~ **(15)** Any person performing duties or ~~[conducting investigations]~~ **activities** relating to serving legal process when such person's ~~[investigation is]~~ **duties or activities are** incidental to the serving of legal process; or

~~[(15)]~~ **(16)** A consumer reporting agency ~~[is]~~ **as** defined in 15 U.S.C. Section ~~[1681(a)]~~ **1681a** and its contract and salaried employees.

[324.1106. PERSONS DEEMED NOT TO BE ENGAGING IN PRIVATE INVESTIGATION BUSINESS. — The following persons shall not be deemed to be engaging in the private investigator business:

(1) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;

(2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;

(3) Any employee, agent, or independent contractor employed by any government agency, division, or department of the state whose work relationship is established by a written contract while working within the scope of employment established under such contract;

(4) An attorney performing duties as an attorney, or an attorney's paralegal or employee retained by such attorney assisting in the performance of such duties or investigation on behalf of such attorney;

(5) A collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or the equivalent thereof;

(6) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;

(7) Any bank subject to the jurisdiction of the director of the division of finance of the state of Missouri or the comptroller of currency of the United States;

(8) An insurance adjuster. For the purposes of sections 324.1100 to 324.1148, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;

(9) Any private fire investigator whose primary purpose of employment is the determination of the origin, nature, cause, or calculation of losses relevant to a fire;

(10) Employees of a not-for-profit organization or its affiliate or subsidiary who makes and processes requests on behalf of health care providers and facilities for employee criminal and other background information under section 660.317, RSMo;

(11) Any real estate broker, real estate salesperson, or real estate appraiser acting within the scope of his or her license;

(12) Expert witnesses who have been certified or accredited by a national or state association associated with the expert's scope of expertise;

(13) Any person who does not hold themselves out to the public as a private investigator but is under contract with a state agency or political subdivision; or

(14) Any person performing duties or conducting investigations relating to serving legal process when such person's investigation is incidental to the serving of legal process;

(15) A consumer reporting agency as defined in 15 U.S.C. Section 1681(a) and its contract and salaried employees.]

324.1110. EXAMINATION IS REQUIRED — BACKGROUND INVESTIGATION REQUIRED — WAIVER OF TESTING, SHOWING REQUIRED. — 1. The board of private investigator examiners shall require as a condition of licensure as a private investigator that the applicant pass a written examination as evidence of knowledge of investigator rules and regulations.

2. The [department] **board** shall conduct a complete investigation of the background of each applicant for licensure as a private investigator to determine whether the applicant is qualified for licensure under sections 324.1100 to 324.1148. The board shall [and will] outline basic qualification requirements for licensing as a private investigator and agency.

3. In the event requirements have been met so that testing has been waived, qualification shall be dependent on a showing of, for the two previous years:

(1) Registration and good standing as a business in this state; and

(2) Two hundred fifty thousand dollars in business general liability insurance.

4. The board may review applicants seeking reciprocity. An applicant seeking reciprocity shall have undergone a licensing procedure similar to that required by this state and shall meet this state's minimum insurance requirements.

324.1112. DENIAL OF A REQUEST FOR LICENSURE, WHEN. — 1. The board of private investigator examiners may deny a request for a license if the applicant:

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

(2) [Within two years prior to the application date:

(a)] Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

[(b)] (3) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude, **including receiving a suspended imposition of sentence following a plea of guilty to a misdemeanor offense;**

(4) **Has been refused a license under sections 324.1100 to 324.1148 or had a license revoked or denied in this state or any other state;**

[(c)] (5) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

[(d)] (6) Has been dependent on or abused alcohol or drugs; or

[(e)] (7) Has used, possessed, or trafficked in any illegal substance;

[(3)] (8) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

[(4)] (9) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or

[(5)] (10) Knowingly made any false statement in the application.

2. The board shall consider any evidence of the applicant's rehabilitation when considering a request for licensure.

324.1114. FEE REQUIRED — LICENSE FOR INDIVIDUALS ONLY, AGENCY LICENSE MUST BE APPLIED FOR SEPARATELY. — 1. Every application submitted under the provisions of sections 324.1100 to 324.1148 shall be accompanied by a fee as determined by the board [as follows:

(1) For an individual license, agency license and employees being licensed to work under an agency license; or

(2) If a license is issued for a period of less than one year, the fee shall be prorated for the months, or fraction thereof, for which the license is issued].

2. The board shall set fees as authorized by sections 324.1100 to 324.1148 at a level to produce revenue which will not substantially exceed the cost and expense of administering sections 324.1100 to 324.1148.

3. The fees prescribed by sections 324.1100 to 324.1148 shall be exclusive and notwithstanding any other provision of law. No municipality may require any person licensed under sections 324.1100 to 324.1148 to furnish any bond, pass any examination, or pay any license fee or occupational tax relative to practicing the person's profession.

4. A private investigator license shall allow only the individual licensed by the state of **Missouri** to conduct investigations. An agency license shall be applied for separately and held by [an individual] **a person** who is licensed as a private investigator. The agency may hire individuals to work for the agency conducting investigations for the agency only. Persons hired shall make application as determined by the board and meet all requirements set forth by the board except that they shall not be required to meet any experience requirements and shall be allowed to begin working immediately upon the agency submitting their applications.

324.1118. LICENSURE REQUIRED—PROHIBITED ACTS.— A private investigator agency shall not hire an individual, who is not licensed as a private investigator, as an employee if the individual:

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

(2) Within two years prior to the hiring date:

(a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

(b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude;

(c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

(d) Has been dependent on or abused alcohol or drugs; or

(e) Has used, possessed, or trafficked in any illegal substance;

(3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or

(5) Knowingly made any false statement in the application.]

324.1118. LICENSURE REQUIRED—PROHIBITED ACTS.— A private investigator agency shall not hire an individual, who is not licensed as a private investigator, as an employee if the individual:

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

(2) Within two years prior to the application date:

(a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

(b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude, **including receiving a suspended imposition of sentence following a plea of guilty to a misdemeanor offense;**

(c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

- (d) Has been dependent on or abused alcohol or drugs; or
- (e) Has used, possessed, or trafficked in any illegal substance;
- (3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;
- (4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or
- (5) Knowingly made any false statement in the application.

324.1124. FORM OF LICENSE, CONTENTS — POSTING REQUIREMENTS. — 1. The [board of private investigator examiners] **division** shall determine the form of the license [which shall include the:

- (1) Name of the licensee;
- (2) Name under which the licensee is to operate; and
- (3) Number and date of the license].

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such size, design, and content as determined by the division shall be issued without charge to each licensee. Such card shall be evidence that the licensee is licensed under sections 324.1100 to 324.1148. When any person to whom a card is issued terminates such person's position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the board of private investigator examiners for cancellation. Within thirty days after any change of address, a licensee shall notify the board of the address change. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

324.1126. EXPIRATION OF LICENSE, WHEN — RENEWAL — LICENSEE RESPONSIBLE FOR GOOD CONDUCT OF EMPLOYEES. — 1. Any license issued under sections 324.1100 to 324.1148 shall [expire two years after the date of its issuance. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee, except that:

(1) The application upon renewal need only provide information required of original applicants if the information shown on the original application or any renewal thereof on file with the board is no longer accurate;

(2) A new photograph shall be submitted with the application for renewal only if the photograph on file with the board has been on file more than two years; and

(3) The applicant does not have to be tested again but must instead provide proof that the applicant successfully completed sixteen hours of continuing education credits; and

(4) Additional information may be required by rules and regulations adopted by the board of private investigator examiners] **be valid for two years. An application for renewal of such license shall be mailed to every person to whom a license was issued or renewed during the current licensing period. The applicant shall complete the application and return it to the board by the renewal date with a renewal fee in an amount to be set by the board and with evidence of continuing education under section 324.1122. Any licensee who practices during the time the license has expired shall be considered to be engaged in prohibited acts under section 324.1104 and shall be subject to the penalties provided for violation of the provisions of sections 324.1100 to 324.1148. If a person is otherwise eligible to renew the person's certification or license, the person may renew an expired certification or license within two years from the date of expiration. To renew such expired certification or license, the person shall submit an application for renewal, pay the renewal fee, pay a delinquent renewal fee as established by the board, and present evidence, in the form prescribed by the board, of having completed the continuing education requirements for renewal specified in section 324.1122. Upon a finding of**

extenuating circumstances, the commission may waive the payment of the delinquent fee. **If a person has failed to renew the person's license within two years of its expiration, the license shall be void. A new photograph shall be submitted with the application for renewal only if the photograph on file with the board has been on file for more than two years.**

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee and the licensee is legally responsible for any acts committed by such licensee's employees or agents which are in violation of sections 324.1100 to 324.1148. A person receiving an agency license shall directly manage the agency and employees.

3. A license issued under sections 324.1100 to 324.1148 shall not be assignable.

324.1128. INFORMATION REGARDING CRIMINAL OFFENSES, LICENSEE TO DIVULGE AS REQUIRED BY LAW — PROHIBITED ACTS. — 1. Any licensee may divulge to the board, any law enforcement officer, prosecuting attorney, or such person's representative any information such person may acquire about any criminal offense. [The licensee may instruct his or her client to divulge such information if the client is the victim, but such person shall not divulge to any other person, except as he or she may be required by law, any information acquired by such person at the direction of the employer or client for whom the information was obtained.] **The licensee shall not divulge to any other person, except as required by law, any other information acquired by the licensee at the direction of his or her employer or client for whom the information was obtained. A licensee may instruct his or her client to divulge any information to the board, any law enforcement officer, prosecuting attorney, or other such person's representative related to a criminal offense if the client is the victim of the criminal offense.**

2. No licensee officer, director, partner, associate, or employee thereof shall:

(1) Knowingly make any false report to his or her employer or client for whom information was being obtained;

(2) Cause any written report to be submitted to a client except by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;

(3) Use a title, wear a uniform, use an insignia or an identification card, or make any statement with the intent to give an impression that such person is connected in any way with the federal government, a state government, or any political subdivision of a state government;

(4) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien;

(5) Manufacture false evidence; or

(6) Create any video recording of an individual in their domicile without the individual's permission. Furthermore, if such video recording is made, it shall not be admissible as evidence in any civil proceeding.

324.1132. ADVERTISING REQUIREMENTS. — Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name, city, and state as it appears in the records of the board of private investigator examiners. No individual or business can advertise as a private investigator, private detective, or private investigator agency without including their state private investigator or private investigator agency license number in the advertisement. A licensee shall not advertise or conduct business from any Missouri address other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received an additional agency license for such location after compliance with the provisions of sections 324.1100 to 324.1148 and such additional requirements necessary for the protection of the public as the board may prescribe by regulation. A licensee shall notify the board in writing

within ten days after closing or changing the location of a branch office. The fee for the additional license shall be [one-half the cost of the fee for the agency's original license] **determined by the board.**

324.1134. LICENSURE SANCTIONS PERMITTED, PROCEDURE — COMPLAINT MAY BE FILED WITH ADMINISTRATIVE HEARING COMMISSION — DISCIPLINARY ACTION AUTHORIZED, WHEN. — 1. The board may suspend or refuse to renew any certificate of registration or authority, permit or license required under sections 324.1100 to 324.1148 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the suspension or refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

- (1) Making any false statement or giving any false information or given any false information in connection with an application for a license or a renewal or reinstatement thereof;
 - (2) Violating any provision of sections 324.1100 to 324.1148;
 - (3) Violating any rule of the board of private investigator examiners adopted under the authority contained in sections 324.1100 to 324.1148;
 - (4) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;
 - (5) Committing, or permitting any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;
 - (6) Knowingly violating, or advising, encouraging, or assisting the violation of, any court order or injunction in the course of business as a licensee;
 - (7) Using any letterhead, advertisement, or other printed matter, or in any manner whatever represented that such person is an instrumentality of the federal government, a state, or any political subdivision thereof;
 - (8) Using a name different from that under which such person is currently licensed in any advertisement, solicitation, or contract for business; [or]
 - (9) **Violating or assisting or enabling any person to violate any provision of this chapter or any lawful rule or regulation adopted pursuant to the authority granted in this chapter; or**
 - (10) Committing any act which is grounds for denial of an application for a license under section 324.1112.
-

3. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the meaning thereof.

4. The agency may continue under the direction of another employee if the licensee's license is suspended or revoked by the board. The board shall establish a time frame in which the agency shall identify an acceptable person who is qualified to assume control of the agency, as required by the board.

5. After the filing of a complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds in subsection 1 of this section for disciplinary action are met, the board may singly or in combination censure or place the person named in the complaint on probation under such terms and conditions as the board deems appropriate for a period not to exceed five years, may suspend for a period not to exceed three years, or revoke the license.

324.1136. RECORD-KEEPING REQUIREMENTS — INVESTIGATORY POWERS OF THE BOARD. — 1. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of private investigator examiners. Such licensee shall file with the board the complete address of the location of the licensee's principal place of business. The board may require the filing of other information for the purpose of identifying such principal place of business.

2. Each private investigator or investigator agency operating under the provisions of sections 324.1100 to 324.1148 shall be required to keep a complete record of the business transactions of such investigator or investigator agency for a period of seven years. Upon the service of a court order issued by a court of competent jurisdiction or upon the service of a subpoena issued by the board that is based on a complaint supported by oath or affirmation, which particularly describes the records and reports, any licensed private investigator who is the owner, partner, director, corporate officer, or custodian of business records shall provide an opportunity for the inspection of the same and to inspect reports made. Any information obtained by the board shall be kept confidential, except as may be necessary to commence and prosecute any legal proceedings. The board shall not personally enter a licensee's place of business to inspect records, but shall utilize an employee of the division of professional registration to act as a gatherer of information and facts to present to the board regarding any complaint or inspection under investigation.

[2.] 3. For the purpose of enforcing the provisions of sections 324.1100 to 324.1148, and in making investigations relating to any violation thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records, or papers which the board deems relevant to the inquiry. The board also may administer an oath to and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner, or associate thereof shall not be entitled to any fees or mileage. A subpoena issued under this section shall be governed by the Missouri rules of civil procedure and shall comply with any confidentiality standards or legal limitations imposed by privacy or open records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts, judicially recognized privileged communications, and the bill of rights of both the United States and Missouri Constitutions. Any person duly subpoenaed who fails to obey such subpoena without reasonable cause, or without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualification of such applicant or licensee or such applicant's alleged unlawful or deceptive practices or methods, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath.

4. Any licensee who is required by fully executed written contract or court order to destroy, seal, or return to a party to a lawsuit, or to the court, records related to work

performed under that contract or court order shall maintain in his or her files, a fully executed copy of the contract or court order requiring destruction, sealing, or return of the records. Maintenance of the contract or court order shall fulfill the requirements of this section.

324.1140. BOARD TO LICENSE PERSONS QUALIFIED TO TRAIN PRIVATE INVESTIGATORS, QUALIFICATIONS — APPLICATION PROCEDURE — CERTIFICATE GRANTED, WHEN — EXPIRATION OF CERTIFICATE. — 1. The board of private investigator examiners shall [certify] **license** persons who are qualified to train private investigators.

2. [In order to be certified as a trainer under this section, a trainer shall:

(1) Be twenty-one or more years of age;

(2) Have a minimum of one-year supervisory experience with a private investigator agency; and

(3) Be personally licensed as a private investigator under sections 324.1100 to 324.1148 and qualified to train private investigators.

3.] Persons wishing to become [certified] **licensed** trainers shall make application to the board of private investigator examiners on a form prescribed by the board and accompanied by a fee determined by the board. The application shall contain a statement of the plan of operation of the training offered by the applicant and the materials and aids to be used and any other information required by the board.

[4.] 3. A [certificate] **license** shall be granted to a trainer if the board finds that the applicant:

(1) [Meets the requirements of subsection 2 of this section;

(2)] Has sufficient knowledge of private investigator business in order to train private investigators sufficiently;

[(3)] (2) Has supplied all required information to the board; and

[(4)] (3) Has paid the required fee.

[5.] 4. The [certificate] **license** issued under this section shall [expire on the third year after the year in which it is issued and shall be renewable triennially upon application and payment of a fee] **be valid for two years and shall be renewable biennially upon application and payment of the renewal fee established by the board. An application for renewal of license shall be mailed to every person to whom a license was issued or renewed during the current licensing period. The applicant shall complete the application and return it to the board by the renewal date with a renewal fee in an amount to be set by the board and with evidence of continuing education under section 324.1122. Any licensee who practices during the time the license has expired shall be considered engaging in prohibited acts under section 324.1104 and shall be subject to the penalties provided for the violation of the provisions of sections 324.1100 to 324.1148. If a person is otherwise eligible to renew the person's certification or license, the person may renew an expired certification or license within two years from the date of expiration. To renew such expired certificate or license, the person shall submit an application for renewal, pay the renewal fee, pay a delinquent renewal fee as established by the board, and present evidence in the form prescribed by the board of having completed the continuing education requirements for renewal specified in section 324.1122. Upon a finding of extenuating circumstances, the commission may waive the payment of the delinquent fee. If a person has failed to renew the person's license within two years of its expiration, the license shall be void.**

324.1147. CIVIL AND CRIMINAL LIABILITY, NO IMMUNITY, WHEN. — The provisions of sections 324.1100 to 324.1148 shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state.

327.031. BOARD ESTABLISHED, MEMBERSHIP, OFFICERS, QUALIFICATIONS OF MEMBERS — HOW APPOINTED — TERMS — VACANCY, HOW FILLED — MAY SUE AND BE SUED —

ABOLISHMENT OF COUNCIL — TRANSFER OF POWERS, DUTIES AND FUNDS. — 1. The "Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects" is hereby established and shall consist of ~~[fourteen]~~ **fifteen** members: a chairperson, who may be either an architect, a professional engineer ~~[or]~~ , a professional land surveyor, **or a landscape architect**; three architects, who shall constitute the architectural division of the board; ~~[three]~~ **four** professional engineers, who shall constitute its professional engineering division; three professional land surveyors, who shall constitute its professional land surveying division; three landscape architects, who shall constitute its landscape ~~[architecture]~~ **architectural** division; and a voting public member.

2. After receiving his or her commission and before entering upon the discharge of his or her official duties, each member of the board shall take, subscribe to and file in the office of the secretary of state the official oath required by the constitution.

3. The chairperson shall be the administrative and executive officer of the board, and it shall be his or her duty to supervise and expedite the work of the board and its divisions, and, at his or her election, when a tie exists between the divisions of the board, to break the tie by recording his or her vote for or against the action upon which the divisions are in disagreement. Each member of the architectural division shall have one vote when voting on an action pending before the board; each member of the professional engineering division shall have one vote when voting on an action pending before the board; ~~[the chairperson of the landscape architecture division or the chairperson's designee]~~ **each member of the professional land surveying division shall have one vote when voting on an action pending before the board; and each member of the landscape architectural division shall have one vote when voting on an action pending before the board;** and each member of the professional land surveying division shall have one vote when voting on an action pending before the board]. Every motion or proposed action upon which the divisions of the board are tied shall be deemed lost, and the chairperson shall so declare, unless the chairperson shall elect to break the tie as provided in this section. ~~[Seven]~~ **Eight** voting members of the board ~~[and two members]~~ **including at least one member** of each division shall constitute a quorum, respectively, for the transaction of ~~board~~ **business**.

4. Each division of the board shall, at its first meeting in each even-numbered year, elect one of its members as division chairperson for a term of two years. **Two voting members of each division of the board shall constitute a quorum for the transaction of division business.** The chairpersons of the architectural division, professional engineering division ~~[and the]~~ , professional land surveying division, **and landscape architectural division** so elected shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the chairperson of the architectural division shall be the ranking vice chairperson, and when the chairperson of the board is a professional engineer, the chairperson of the professional engineering division shall be the ranking vice chairperson, ~~[and]~~ when the chairperson of the board is a professional land surveyor, the chairperson of the professional land surveying division shall be the ranking vice chairperson, **and when the chairperson of the board is a landscape architect, the chairperson of the landscape architectural division shall be the ranking vice chairperson.** The chairperson of each division shall be the administrative and executive officer of his or her division, and it shall be his or her duty to supervise and expedite the work of the division, and, in case of a tie vote on any matter, the chairperson shall, at his or her election, break the tie by his or her vote. Every motion or question pending before the division upon which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless the chairperson shall elect to break such tie by his or her vote.

5. Any person appointed to the board, except a public member, shall be a currently licensed architect, licensed professional engineer, licensed professional land surveyor or registered or licensed landscape architect in Missouri, as the vacancy on the board may require, who has been a resident of Missouri for at least five years, who has been engaged in active practice as an architect, professional engineer, professional land surveyor or landscape architect, as the case may be, for at least ten consecutive years immediately preceding such person's appointment and

who is and has been a citizen of the United States for at least five years immediately preceding such person's appointment. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of engineering shall be regarded as active practice of engineering, for the purposes of this chapter. Active service as a faculty member, after meeting the qualifications required by section 327.314, while holding the rank of assistant professor or higher in an accredited school of engineering and teaching land surveying courses shall be regarded [an] as active practice of land surveying for the purposes of this chapter. **Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of landscape architecture shall be regarded as active practice of landscape architecture, for the purposes of this chapter.** Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of architecture shall be regarded as active practice of architecture for the purposes of this chapter; provided, however, that no faculty member of an accredited school of architecture shall be eligible for appointment to the board unless such person has had at least three years' experience in the active practice of architecture other than in teaching. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

6. The governor shall appoint the chairperson and the other members of the board when a vacancy occurs either by the expiration of a term or otherwise, and each board member shall serve until such member's successor is appointed and has qualified. **Beginning August 28, 2010,** the position of chairperson shall [alternate among an architect, a professional engineer and a professional land surveyor] **rotate sequentially with an architect, then professional engineer, then professional land surveyor, then landscape architect, and shall be a licensee who has previously served as a member of the board.** The appointment of the chairperson shall be for a term of four years which shall be deemed to have begun on the date of his or her appointment and shall end upon the appointment of the chairperson's successor. The chairperson shall not serve more than one term. All other appointments, except to fill an unexpired term, shall be for terms of four years; but no person shall serve on the board for more than two consecutive four-year terms, and each four-year term shall be deemed to have begun on the date of the expiration of the term of the board member who is being replaced or reappointed, as the case may be. Any appointment to the board which is made when the senate is not in session shall be submitted to the senate for its advice and consent at its next session following the date of the appointment.

7. In the event that a vacancy is to occur on the board because of the expiration of a term, then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs, [the president of the American Institute of Architects/Missouri if the vacancy to be filled requires the appointment of an architect,] the president of the Missouri Association of Landscape Architects if the vacancy to be filled requires the appointment of a landscape architect, the president of the Missouri Society of Professional Engineers if the vacancy to be filled requires the appointment of an engineer, [and] the president of the Missouri Society of Professional Surveyors if the vacancy to be filled requires the appointment of a land surveyor, **and the president of the Missouri Association of Landscape Architects if the vacancy to be filled requires the appointment of a landscape architect,** shall submit to the director of the division of professional registration a list of five architects or five professional engineers, [five landscape

architects] or five professional land surveyors, **or five landscape architects** as the case may require, qualified and willing to fill the vacancy in question, with the recommendation that the governor appoint one of the five persons so listed; and with the list of names so submitted, the president of the appropriate organization shall include in a letter of transmittal a description of the method by which the names were chosen. This subsection shall not apply to public member vacancies.

8. The board may sue and be sued as the Missouri board for architects, professional engineers, professional land surveyors and landscape architects, and its members need not be named as parties. Members of the board shall not be personally liable either jointly or severally for any act or acts committed in the performance of their official duties as board members, nor shall any board member be personally liable for any court costs which accrue in any action by or against the board.

9. Upon appointment by the governor and confirmation by the senate of the landscape [architecture] **architectural** division, the landscape architectural council is hereby abolished and all of its powers, duties and responsibilities are transferred to and imposed upon the Missouri board for architects, professional engineers, professional land surveyors and landscape architects established pursuant to this section. Every act performed by or under the authority of the Missouri board for architects, professional engineers, professional land surveyors and landscape architects shall be deemed to have the same force and effect as if performed by the landscape architectural council pursuant to sections 327.600 to 327.635. All rules and regulations of the landscape architectural council shall continue in effect and shall be deemed to be duly adopted rules and regulations of the Missouri board [of] **for** architects, professional engineers, professional [landscape architects and land surveyors] **land surveyors and landscape architects** until such rules and regulations are revised, amended or repealed by the board as provided by law, such action to be taken by the board on or before January 1, 2002.

10. Upon appointment by the governor and confirmation by the senate of the landscape [architecture] **architectural** division, all moneys deposited in the landscape architectural council fund created in section 327.625 shall be transferred to the state board for architects, professional engineers, professional land surveyors and landscape architects fund created in section 327.081. The landscape architectural council fund shall be abolished upon the transfer of all moneys in it to the state board [of] **for** architects, professional engineers, **professional** land surveyors and landscape architects.

327.041. BOARD, POWERS AND DUTIES — RULES, GENERALLY, THIS CHAPTER, PROCEDURE. — 1. The board shall have the duty and the power to carry out the purposes and to enforce and administer the provisions of this chapter, to require, by summons or subpoena, with [the advice of the attorney general and upon] the vote of two-thirds of the voting board members, the attendance and testimony of witnesses, and the production of drawings, plans, plats, specifications, books, papers or any document representing any matter under hearing or investigation, pertaining to the issuance, probation, suspension or revocation of certificates of registration or certificates of authority provided for in this chapter, or pertaining to the unlawful practice of architecture, professional engineering, professional land surveying or landscape architecture.

2. The board shall, within the scope and purview of the provisions of this chapter, prescribe the duties of its officers and employees and adopt, publish and enforce the rules and regulations of professional conduct which shall establish and maintain appropriate standards of competence and integrity in the professions of architecture, professional engineering, professional land surveying and landscape architecture, and adopt, publish and enforce procedural rules and regulations as may be considered by the board to be necessary or proper for the conduct of the board's business and the management of its affairs, and for the effective administration and interpretation of the provisions of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter

shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

3. Rules promulgated by the board pursuant to sections 327.272 to 327.635 shall be consistent with and shall not supersede the rules promulgated by the department of natural resources pursuant to chapter 60, RSMo.

327.351. PROFESSIONAL LICENSE RENEWAL — EXPIRED OR SUSPENDED LICENSE, RENEWAL PROCEDURE — PROFESSIONAL DEVELOPMENT REQUIREMENTS FOR RENEWAL, EXCEPTION. — 1. The professional license issued to every professional land surveyor in Missouri, including certificates of authority issued to corporations as provided in section 327.401, shall be renewed on or before the license or certificate renewal date provided that the required fee is paid. The license of any professional land surveyor or the certificate of authority of any such corporation which is not renewed within three months of the renewal date shall be suspended automatically, subject to the right of the holder of such suspended license or certificate to have it reinstated within nine months of the date of suspension, if the reinstatement fee is paid. Any license or certificate of authority suspended and not reinstated within nine months of the suspension date shall expire and be void and the holder of such expired license or certificate shall have no rights or privileges thereunder, but any person or corporation whose license or certificate has expired may, within the discretion of the board and upon payment of the required fee, be reregistered or relicensed under such person's or corporation's original license number.

2. Each application for the renewal of a license or of a certificate of authority shall be on a form furnished to the applicant and shall be accompanied by the required fee; but no renewal fee need be paid by any professional land surveyor over the age of seventy-five.

3. Beginning January 1, 1996, as a condition for renewal of a license issued pursuant to section 327.314, a license holder shall be required to successfully complete twenty units of professional development that meet the standards established by the board regulations within the preceding two calendar years. Any license holder who completes more than twenty units of professional development within the preceding two calendar years may have the excess, not to exceed ten units, applied to the requirement for the next two-year period.

4. The board shall not renew the license of any license holder who has failed to complete the professional development requirements pursuant to subsection 3 of this section, unless such license holder can show good cause why he or she was unable to comply with such requirements. If the board determines that good cause was shown, the board shall permit the license holder to make up all outstanding required units of professional development.

5. A license holder may at any time prior to the termination of his or her license request to be classified as inactive. Inactive licenses may be maintained by payment of an annual fee determined by the board. Holders of inactive licenses shall not be required to complete professional development as required in subsection 3 of this section. Holders of inactive licenses shall not practice as professional land surveyors **within this state, but may continue to use the title "professional land surveyor" or the initials "PLS" after such person's name.** If the board determines that good cause was shown, the board shall permit the professional land surveyor to make up all outstanding required units of professional development.

6. A holder of an inactive license may return such license to an active license to practice professional land surveying by paying the required fee, and either:

(1) Completing one-half of the two-year requirement for professional development multiplied by the number of years of lapsed or inactive status. The maximum requirement for professional development units shall be two and one-half times the two-year requirement. The minimum requirement for professional development units shall be no less than the two-year

requirement. Such requirement shall be satisfied within the two years prior to the date of reinstatement; or

(2) Taking such examination as the board deems necessary to determine such person's qualifications. Such examination shall cover areas designed to demonstrate the applicant's proficiency in current methods of land surveying practice.

7. Exemption to the required professional development units shall be granted to registrants during periods of serving honorably on full-time active duty in the military service.

8. At the time of application for license renewal, each licensee shall report, on a form provided by the board, the professional development activities undertaken during the preceding renewal period to satisfy the requirements pursuant to subsection 3 of this section. The licensee shall maintain a file in which records of activities are kept, including dates, subjects, duration of program, and any other appropriate documentation, for a period of four years after the program date.

327.411. PERSONAL SEAL, HOW USED, EFFECT OF. — 1. Each architect and each professional engineer and each professional land surveyor and each landscape architect shall have a personal seal in a form prescribed by the board, and he or she shall affix the seal to all final documents including, but not limited to, plans, specifications, estimates, plats, reports, surveys, proposals and other documents or instruments prepared by the licensee, or under such licensee's immediate personal supervision. **Such licensee shall either prepare or personally supervise the preparation of all documents sealed by the licensee**, and such licensee shall be held personally responsible for the contents of all such documents sealed by such licensee, **whether prepared or drafted by another licensee or not.**

2. The personal seal of an architect or professional engineer or professional land surveyor or landscape architect shall be the legal equivalent of the licensee's signature whenever and wherever used, and the owner of the seal shall be responsible for the architectural, engineering, surveying, or landscape architectural documents, as the case may be, when the licensee places his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other documents or instruments for, or to be used in connection with, any architectural or engineering project, survey, or landscape architectural project. **Licensees shall undertake to perform architectural, professional engineering, professional land surveying and landscape architectural services only when they are qualified by education, training, and experience in the specific technical areas involved.**

3. **Notwithstanding any provision of this section,** any architect, professional engineer, professional land surveyor, or landscape architect may, but is not required to, attach a statement over his or her signature, authenticated by his or her personal seal, specifying the particular plans, specifications, plats, reports, surveys or other documents or instruments, or portions thereof, intended to be authenticated by the seal, and disclaiming any responsibility for all other plans, specifications, estimates, reports, or other documents or instruments relating to or intended to be used for any part or parts of the architectural or engineering project or survey or landscape architectural project.

4. Nothing in this section, or any rule or regulation of the board shall require any professional to seal preliminary or incomplete documents.

332.011. DEFINITIONS. — As used in this chapter, the following words and terms mean:

(1) "Accredited dental hygiene school", any program which teaches a course in dental hygiene which is accredited by the Commission on Dental Accreditation of the American Dental Association and which shall have a minimum of two academic years of curriculum provided in a college or institution of higher education;

(2) "Accredited dental school", any college, university, school, or other institution which teaches dentistry which has been certified by the American Dental Association;

(3) "Board", the Missouri dental board;

(4) "Certified dental assistant", a dental assistant who is currently certified by the Dental Assisting National Board, Inc.;

(5) "Dental assistant", an employee of a duly registered and currently licensed dentist in Missouri, other than either a dental hygienist or a certified dental assistant;

(6) "Expanded-functions dental assistant", any dental assistant who has passed a basic dental assisting skills mastery examination or a certified dental assistant, either of whom has successfully completed a board-approved expanded-functions course, passed a competency examination, and [can show proof of competency in a specific expanded function to the] **has obtained a permit authorizing them to perform expanded-functions duties from the Missouri dental board;**

(7) **"Expanded-functions duties", reversible acts that would be considered the practice of dentistry as defined in section 332.071 that the board specifies by rule may be delegated to a dental assistant or dental hygienist who possesses an expanded-functions permit.**

332.098. EXPANDED-FUNCTION DUTIES, DELEGATION OF — REQUIREMENTS — RULEMAKING AUTHORITY. — 1. Dentists delegating expanded-functions duties to dental assistants or dental hygienists shall do so in accordance with rules set forth by the board. No person shall perform expanded-functions duties in this state except under his or her own name and unless the board has issued to such person a permit to perform expanded-functions duties in this state; however, no provision of this section or this chapter shall be construed to make it unlawful for a duly registered and currently licensed dentist in this state to perform dental services that would be considered expanded-functions duties in this state or to make it unlawful for dental assistants, certified dental assistants, or expanded-functions dental assistants to perform polishing of teeth. Under section 332.093, the board shall not promulgate any rule allowing the delegation of acts to a dental assistant that would conflict with the practice of dental hygiene as defined in section 332.091. Expanded-functions permits shall be renewed every five years. The board may promulgate rules specifying the criteria by which expanded-functions permits may be issued and renewed. Expanded-functions permits shall be subject to discipline as provided in section 332.321.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

334.100. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, ALTERNATIVES, GROUNDS FOR — REINSTATEMENT PROVISIONS. — 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before

the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

(f) Performing or prescribing medical services which have been declared by board rule to be of no medical or osteopathic value;

(g) Final disciplinary action by any professional medical or osteopathic association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in

good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

(i) Exercising influence within a physician-patient relationship for purposes of engaging a patient in sexual activity;

(j) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

(k) Failing to furnish details of a patient's medical records to other treating physicians or hospitals upon proper request; or failing to comply with any other law relating to medical records;

(l) Failure of any applicant or licensee, other than the licensee subject to the investigation, to cooperate with the board during any investigation;

(m) Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

(n) Failure to timely pay license renewal fees specified in this chapter;

(o) Violating a probation agreement with this board or any other licensing agency;

(p) Failing to inform the board of the physician's current residence and business address;

(q) Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physician. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation or association which issues or conducts such advertising;

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A physician who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth, death or other certificate or document executed in connection with the practice of the person's profession;

(15) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of health care services for all patients, or the qualifications of an individual person or persons to diagnose, render, or perform health care services;

(16) Using, or permitting the use of, the person's name under the designation of "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

(17) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208, RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

(18) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a physician or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

(19) Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, RSMo, as a podiatrist pursuant to chapter 330, RSMo, **as an advanced practice registered nurse under chapter 335**, or any licensed and registered physician, dentist, [or] podiatrist, **or advanced practice registered nurse** practicing in another jurisdiction, whose license is in good standing;

(20) Any candidate for licensure or person licensed to practice as a physical therapist, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.620;

(21) Any person licensed to practice as a physician or surgeon, requiring, as a condition of the physician-patient relationship, that the patient receive prescribed drugs, devices or other professional services directly from facilities of that physician's office or other entities under that physician's ownership or control. A physician shall provide the patient with a prescription which may be taken to the facility selected by the patient and a physician knowingly failing to disclose to a patient on a form approved by the advisory commission for professional physical therapists as established by section 334.625 which is dated and signed by a patient or guardian acknowledging that the patient or guardian has read and understands that the physician has a pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment and that the prescribed treatment is available on a competitive basis. This subdivision shall not apply to a referral by one physician to another physician within a group of physicians practicing together;

(22) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by another physician who is authorized by law to do so;

(23) Revocation, suspension, limitation or restriction of any kind whatsoever of any controlled substance authority, whether agreed to voluntarily or not;

(24) For a physician to operate, conduct, manage, or establish an abortion facility, or for a physician to perform an abortion in an abortion facility, if such facility comes under the definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, RSMo, and such facility has failed to obtain or renew a license as an ambulatory surgical center;

(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physician to submit to a reexamination for the purpose of establishing his or her competency to practice as a physician or surgeon or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physician's or surgeon's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three physicians, one selected by the physician compelled to take the examination, one selected by the board, and one selected by the two physicians so selected who are graduates of a professional school approved and accredited as reputable by the association which has approved and accredited as reputable the professional school from which the licentiate graduated. However, if the physician is a graduate of a medical school not accredited by the American Medical Association or American Osteopathic Association, then each party shall choose any physician who is a graduate of a medical school accredited by the American Medical Association or the American Osteopathic Association;

(b) For the purpose of this subdivision, every physician licensed pursuant to this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground that the examining physician's testimony or examination is privileged;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physician or applicant without the physician's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physician, by registered mail, addressed to the physician at the physician's last known address. Failure of a physician to designate an examining physician to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against the physician, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physician's control. A physician whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physician can resume the competent practice as a physician and surgeon with reasonable skill and safety to patients;

(e) In any proceeding pursuant to this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of this section.

3. Collaborative practice arrangements, protocols and standing orders shall be in writing and signed and dated by a physician prior to their implementation.

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

6. Before restoring to good standing a license, certificate or permit issued pursuant to this chapter which has been in a revoked, suspended or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

7. In any investigation, hearing or other proceeding to determine a licensee's or applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such licensee, applicant, record custodian or patient might otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee, applicant or record custodian and a patient.

334.506. PHYSICAL THERAPISTS MAY PROVIDE CERTAIN SERVICES WITHOUT PRESCRIPTION OR DIRECTION OF AN APPROVED HEALTH CARE PROVIDER, WHEN — LIMITATIONS. — 1. As used in this section, "approved health care provider" means a person holding a current and active license as a physician and surgeon under this chapter, a chiropractor under chapter 331, RSMo, a dentist under chapter 332, RSMo, a podiatrist under chapter 330, RSMo, a physician assistant under this chapter, **an advanced practice registered nurse under chapter 335**, or any licensed and registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction whose license is in good standing.

2. A physical therapist shall not initiate treatment for a new injury or illness without a prescription from an approved health care provider.

3. A physical therapist may provide educational resources and training, develop fitness or wellness programs for asymptomatic persons, or provide screening or consultative services within the scope of physical therapy practice without the prescription and direction of an approved health care provider.

4. A physical therapist may examine and treat without the prescription and direction of an approved health care provider any person with a recurring self-limited injury within one year of diagnosis by an approved health care provider or a chronic illness that has been previously diagnosed by an approved health care provider. The physical therapist shall:

(1) Contact the patient's current approved health care provider within seven days of initiating physical therapy services under this subsection;

(2) Not change an existing physical therapy referral available to the physical therapist without approval of the patient's current approved health care provider;

(3) Refer to an approved health care provider any patient whose medical condition at the time of examination or treatment is determined to be beyond the scope of practice of physical therapy;

(4) Refer to an approved health care provider any patient whose condition for which physical therapy services are rendered under this subsection has not been documented to be progressing toward documented treatment goals after six visits or fourteen days, whichever first occurs;

(5) Notify the patient's current approved health care provider prior to the continuation of treatment if treatment rendered under this subsection is to continue beyond thirty days. The physical therapist shall provide such notification for each successive period of thirty days.

5. The provision of physical therapy services of evaluation and screening pursuant to this section shall be limited to a physical therapist, and any authority for evaluation and screening granted within this section may not be delegated. Upon each reinitiation of physical therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the provisions of subsection 4 of this section may be delegated by physical therapists to physical therapist assistants only if the patient's current approved health care provider has been so informed as part of the physical therapist's seven-day notification upon reinitiation of physical therapy services as required in subsection 4 of this section. Nothing in this subsection shall be construed as to limit the ability of physical therapists or physical therapist assistants to provide physical therapy services in accordance with the provisions of this chapter, and upon the referral of an approved health care provider. Nothing in this subsection shall prohibit an approved health care provider from acting within the scope of their practice as defined by the applicable chapters of RSMo.

6. No person licensed to practice, or applicant for licensure, as a physical therapist or physical therapist assistant shall make a medical diagnosis.

7. A physical therapist shall only delegate physical therapy treatment to a physical therapist assistant or to a person in an entry level of a professional education program approved by the Commission for Accreditation of Physical Therapists and Physical Therapist Assistant Education (CAPTE) who satisfies supervised clinical education requirements related to the person's physical therapist or physical therapist assistant education. The entry-level person shall be under on-site supervision of a physical therapist.

334.613. REFUSAL TO ISSUE OR RENEW A LICENSE, PROCEDURE — COMPLAINT MAY BE FILED, WHEN, REQUIREMENTS FOR PROCEEDINGS ON — DISCIPLINARY ACTION AUTHORIZED. — 1. The board may refuse to issue or renew a license to practice as a physical therapist or physical therapist assistant for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew a license to practice as a physical therapist or physical therapist assistant, the board may, at its discretion, issue a license which is subject to probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited, or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited, or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of a license to practice as a physical therapist or physical therapist assistant who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of a physical therapist or physical therapist assistant;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant, for any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit, or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or unprofessional conduct in the performance of the functions or duties of a physical therapist or physical therapist assistant, including but not limited to the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for sessions of physical therapy which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion, or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment or services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience, or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment, or infirmity can be cured by a method, procedure, treatment, medicine, or device;

(f) Performing services which have been declared by board rule to be of no physical therapy value;

(g) Final disciplinary action by any professional association, professional society, licensed hospital or medical staff of the hospital, or physical therapy facility in this or any other state or territory, whether agreed to voluntarily or not, and including but not limited to any removal, suspension, limitation, or restriction of the person's professional employment, malpractice, or any other violation of any provision of this chapter;

(h) Administering treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional physical therapy practice;

(i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while a physical therapist or physical therapist assistant/patient relationship exists; making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with patients or clients;

(j) Terminating the care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

(k) Failing to furnish details of a patient's physical therapy records to treating physicians, other physical therapists, or hospitals upon proper request; or failing to comply with any other law relating to physical therapy records;

(l) Failure of any applicant or licensee, other than the licensee subject to the investigation, to cooperate with the board during any investigation;

(m) Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

(n) Failure to timely pay license renewal fees specified in this chapter;

(o) Violating a probation agreement with this board or any other licensing agency;

(p) Failing to inform the board of the physical therapist's or physical therapist assistant's current telephone number, residence, and business address;

(q) Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physical therapist or physical therapist assistant. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation, or association which issues or conducts such advertising;

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence, or repeated negligence in the performance of the functions or duties of a physical therapist or physical therapist assistant. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule adopted under this chapter;

(7) Impersonation of any person licensed as a physical therapist or physical therapist assistant or allowing any person to use his or her license or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation, or other final disciplinary action against a physical therapist or physical therapist assistant for a license or other right to practice as a physical therapist or physical therapist assistant by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including but not limited to the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of physical therapy while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice who is not licensed and currently eligible to practice under this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice physical therapy who is not licensed and currently eligible to practice under this chapter;

(11) Issuance of a license to practice as a physical therapist or physical therapist assistant based upon a material mistake of fact;

(12) Failure to display a valid license pursuant to practice as a physical therapist or physical therapist assistant;

(13) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any document executed in connection with the practice of physical therapy;

(14) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of physical therapy services for all patients, or the qualifications of an individual person or persons to render, or perform physical therapy services;

(15) Using, or permitting the use of, the person's name under the designation of "physical therapist", "physiotherapist", "registered physical therapist", "P.T.", "Ph.T.", "P.T.T.", "D.P.T.", "M.P.T." or "R.P.T.", "physical therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any

similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

(16) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment under chapter 208, RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

(17) Failure or refusal to properly guard against contagious, infectious, or communicable diseases or the spread thereof; maintaining an unsanitary facility or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in any physical therapy facility to the board, in writing, within thirty days after the discovery thereof;

(18) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon under this chapter, as a physician assistant under this chapter, as a chiropractor under chapter 331, RSMo, as a dentist under chapter 332, RSMo, as a podiatrist under chapter 330, RSMo, **as an advanced practice registered nurse under chapter 335**, or any licensed and registered physician, chiropractor, dentist, [or] , podiatrist, **or advanced practice registered nurse** practicing in another jurisdiction, whose license is in good standing;

(19) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.685;

(20) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a physician who is authorized by law to do so;

(21) Failing to maintain adequate patient records under 334.602;

(22) Attempting to engage in conduct that subverts or undermines the integrity of the licensing examination or the licensing examination process, including but not limited to utilizing in any manner recalled or memorized licensing examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with any other examinees during the test, or copying or sharing licensing examination questions or portions of questions;

(23) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant who requests, receives, participates or engages directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or profits by means of a credit or other valuable consideration such as wages, an unearned commission, discount or gratuity with any person who referred a patient, or with any relative or business associate of the referring person;

(24) Being unable to practice as a physical therapist or physical therapist assistant with reasonable skill and safety to patients by reasons of incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physical therapist or physical therapist assistant to submit to a reexamination for the purpose of establishing his or her competency to practice as a physical therapist or physical therapist assistant conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physical therapist's or physical therapist assistant's professional conduct, or to submit to a mental or physical examination or combination thereof by a facility or professional approved by the board;

(b) For the purpose of this subdivision, every physical therapist and physical therapist assistant licensed under this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physical therapist, physical therapist assistant or applicant without the physical therapist's, physical therapist assistant's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physical therapist or physical therapist assistant, by registered mail, addressed to the physical therapist or physical therapist assistant at the physical therapist's or physical therapist assistant's last known address. Failure of a physical therapist or physical therapist assistant to submit to the examination when directed shall constitute an admission of the allegations against the physical therapist or physical therapist assistant, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physical therapist's or physical therapist assistant's control. A physical therapist or physical therapist assistant whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physical therapist or physical therapist assistant can resume the competent practice as a physical therapist or physical therapist assistant with reasonable skill and safety to patients;

(e) In any proceeding under this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physical therapist or physical therapist assistant in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 3 of this section.

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination:

(1) Warn, censure or place the physical therapist or physical therapist assistant named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years;

(2) Suspend the physical therapist's or physical therapist assistant's license for a period not to exceed three years;

(3) Restrict or limit the physical therapist's or physical therapist assistant's license for an indefinite period of time;

(4) Revoke the physical therapist's or physical therapist assistant's license;

(5) Administer a public or private reprimand;

(6) Deny the physical therapist's or physical therapist assistant's application for a license;

(7) Permanently withhold issuance of a license;

(8) Require the physical therapist or physical therapist assistant to submit to the care, counseling or treatment of physicians designated by the board at the expense of the physical therapist or physical therapist assistant to be examined;

(9) Require the physical therapist or physical therapist assistant to attend such continuing educational courses and pass such examinations as the board may direct.

4. In any order of revocation, the board may provide that the physical therapist or physical therapist assistant shall not apply for reinstatement of the physical therapist's or physical therapist assistant's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

5. Before restoring to good standing a license issued under this chapter which has been in a revoked, suspended, or inactive state for any cause for more than two years, the board may

require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

6. In any investigation, hearing or other proceeding to determine a physical therapist's, physical therapist assistant's or applicant's fitness to practice, any record relating to any patient of the physical therapist, physical therapist assistant, or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such physical therapist, physical therapist assistant, applicant, record custodian, or patient might otherwise invoke. In addition, no such physical therapist, physical therapist assistant, applicant, or record custodian may withhold records or testimony bearing upon a physical therapist's, physical therapist assistant's, or applicant's fitness to practice on the [ground] **grounds** of privilege between such physical therapist, physical therapist assistant, applicant, or record custodian and a patient.

334.735. DEFINITIONS—RULES—SCOPE OF PRACTICE—PROHIBITED ACTIVITIES—BOARD OF HEALING ARTS TO ADMINISTER LICENSING PROGRAM — SUPERVISION AGREEMENTS — DUTIES AND LIABILITY OF PHYSICIANS. — 1. As used in sections 334.735 to 334.749, the following terms mean:

- (1) "Applicant", any individual who seeks to become licensed as a physician assistant;
- (2) "Certification" or "registration", a process by a certifying entity that grants recognition to applicants meeting predetermined qualifications specified by such certifying entity;
- (3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;
- (4) "Department", the department of insurance, financial institutions and professional registration or a designated agency thereof;
- (5) "License", a document issued to an applicant by the board acknowledging that the applicant is entitled to practice as a physician assistant;
- (6) "Physician assistant", a person who has graduated from a physician assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency, who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants and has active certification by the National Commission on Certification of Physician Assistants who provides health care services delegated by a licensed physician. A person who has been employed as a physician assistant for three years prior to August 28, 1989, who has passed the National Commission on Certification of Physician Assistants examination, and has active certification of the National Commission on Certification of Physician Assistants;
- (7) "Recognition", the formal process of becoming a certifying entity as required by the provisions of sections 334.735 to 334.749;
- (8) "Supervision", control exercised over a physician assistant working within the same facility as the supervising physician sixty-six percent of the time a physician assistant provides patient care, except a physician assistant may make follow-up patient examinations in hospitals, nursing homes, patient homes, and correctional facilities, each such examination being reviewed, approved and signed by the supervising physician, except as provided by subsection 2 of this section. For the purposes of this section, the percentage of time a physician assistant provides patient care with the supervising physician on-site shall be measured each calendar quarter. The supervising physician must be readily available in person or via telecommunication during the time the physician assistant is providing patient care. The board shall promulgate rules pursuant to chapter 536, RSMo, for documentation of joint review of the physician assistant activity by the supervising physician and the physician assistant. The physician assistant shall be limited to practice at locations where the supervising physician is no further than thirty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services. Any other provisions of this chapter notwithstanding, for up to ninety days following the effective date

of rules promulgated by the board to establish the waiver process under subsection 2 of this section, any physician assistant practicing in a health professional shortage area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated by the supervising physician on the supervising physician form that was in effect on April 1, 2007.

2. The board shall promulgate rules under chapter 536, RSMo, to direct the advisory commission on physician assistants to establish a formal waiver mechanism by which an individual physician-physician assistant team may apply for alternate minimum amounts of on-site supervision and maximum distance from the supervising physician. After review of an application for a waiver, the advisory commission on physician assistants shall present its recommendation to the board for its advice and consent on the approval or denial of the application. The rule shall establish a process by which the public is invited to comment on the application for a waiver, and shall specify that a waiver may only be granted if a supervising physician and physician assistant demonstrate to the board's satisfaction in accordance with its uniformly applied criteria that:

(1) Adequate supervision will be provided by the physician for the physician assistant, given the physician assistant's training and experience and the acuity of patient conditions normally treated in the clinical setting;

(2) The physician assistant shall be limited to practice at locations where the supervising physician is no further than fifty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services;

(3) The community or communities served by the supervising physician and physician assistant would experience reduced access to health care services in the absence of a waiver;

(4) The applicant will practice in an area designated at the time of application as a health professional shortage area;

(5) Nothing in this section shall be construed to require a physician-physician assistant team to increase their on-site requirement allowed in their initial waiver in order to qualify for renewal of such waiver;

(6) If a waiver has been granted by the board of healing arts **on or after August 28, 2009**, to a **physician-physician assistant team** working in a rural health clinic under the federal Rural Health Clinic Services Act, P.L. 95-210, as amended, no additional waiver shall be required **for the physician-physician assistant team**, so long as the rural health clinic maintains its status as a rural health clinic under such federal act, and such [physician assistant and supervising physician] **physician-physician assistant team** comply with federal supervision requirements. **No supervision requirements in addition to the minimum federal law shall be required for the physician-physician assistant team in a rural health clinic if a waiver has been granted by the board. However, the board shall be able to void a current waiver after conducting a hearing and upon a finding of fact that the physician-physician assistant team has failed to comply with such federal act or either member of the team has violated a provision of this chapter;**

(7) A physician assistant shall only be required to seek a renewal of a waiver every five years or when his or her supervising physician is a different physician than the physician shown on the waiver application or they move their primary practice location more than ten miles from the location shown on the waiver application.

3. The scope of practice of a physician assistant shall consist only of the following services and procedures:

(1) Taking patient histories;

(2) Performing physical examinations of a patient;

(3) Performing or assisting in the performance of routine office laboratory and patient screening procedures;

(4) Performing routine therapeutic procedures;

(5) Recording diagnostic impressions and evaluating situations calling for attention of a physician to institute treatment procedures;

(6) Instructing and counseling patients regarding mental and physical health using procedures reviewed and approved by a licensed physician;

(7) Assisting the supervising physician in institutional settings, including reviewing of treatment plans, ordering of tests and diagnostic laboratory and radiological services, and ordering of therapies, using procedures reviewed and approved by a licensed physician;

(8) Assisting in surgery;

(9) Performing such other tasks not prohibited by law under the supervision of a licensed physician as the physician's assistant has been trained and is proficient to perform;

(10) Physician assistants shall not perform abortions.

4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or therapy [independent of consultation with the supervising physician] **unless pursuant to a physician supervision agreement in accordance with the law**, nor prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the measurement of visual power or visual efficiency of the human eye, nor administer or monitor general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a physician assistant supervision agreement which is specific to the clinical conditions treated by the supervising physician and the physician assistant shall be subject to the following:

(1) A physician assistant shall only prescribe controlled substances in accordance with section 334.747;

(2) The types of drugs, medications, devices or therapies prescribed or dispensed by a physician assistant shall be consistent with the scopes of practice of the physician assistant and the supervising physician;

(3) All prescriptions shall conform with state and federal laws and regulations and shall include the name, address and telephone number of the physician assistant and the supervising physician;

(4) A physician assistant or advanced practice nurse as defined in section 335.016, RSMo, may request, receive and sign for noncontrolled professional samples and may distribute professional samples to patients;

(5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies the supervising physician is not qualified or authorized to prescribe; and

(6) A physician assistant may only dispense starter doses of medication to cover a period of time for seventy-two hours or less.

5. A physician assistant shall clearly identify himself or herself as a physician assistant and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician assistant shall practice or attempt to practice without physician supervision or in any location where the supervising physician is not immediately available for consultation, assistance and intervention, except as otherwise provided in this section, and in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant.

6. For purposes of this section, the licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536, RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not

be required to be licensed as physician assistants. All applicants for physician assistant licensure who complete a physician assistant training program after January 1, 2008, shall have a master's degree from a physician assistant program.

7. "Physician assistant supervision agreement" means a written agreement, jointly agreed-upon protocols or standing order between a supervising physician and a physician assistant, which provides for the delegation of health care services from a supervising physician to a physician assistant and the review of such services.

8. When a physician assistant supervision agreement is utilized to provide health care services for conditions other than acute self-limited or well-defined problems, the supervising physician or other physician designated in the supervision agreement shall see the patient for evaluation and approve or formulate the plan of treatment for new or significantly changed conditions as soon as practical, but in no case more than two weeks after the patient has been seen by the physician assistant.

9. At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

10. It is the responsibility of the supervising physician to determine and document the completion of at least a one-month period of time during which the licensed physician assistant shall practice with a supervising physician continuously present before practicing in a setting where a supervising physician is not continuously present.

11. No contract or other agreement shall require a physician to act as a supervising physician for a physician assistant against the physician's will. A physician shall have the right to refuse to act as a supervising physician, without penalty, for a particular physician assistant. No contract or other agreement shall limit the supervising physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any physician assistant, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. Physician assistants shall file with the board a copy of their supervising physician form.

13. No physician shall be designated to serve as supervising physician for more than three full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant agreements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo.

335.075. VERIFICATION OF LICENSURE PRIOR TO HIRING. — 1. Before hiring a registered nurse, licensed practical nurse, or advanced practice registered nurse in Missouri, an employer shall verify that the applicant has a current, valid license to practice nursing under chapter 335. This section shall not apply for employment which does not require the possession of a current, valid license to practice nursing.

2. Employers shall have a process in place to verify licensure status of each registered nurse, licensed practical nurse, or advanced practice registered nurse coinciding with the license renewal.

335.081. EXEMPTED PRACTICES AND PRACTITIONERS. — So long as the person involved does not represent or hold himself or herself out as a nurse licensed to practice in this state, no provision of sections 335.011 to 335.096 shall be construed as prohibiting:

(1) The practice of any profession for which a license is required and issued pursuant to the laws of this state by a person duly licensed to practice that profession;

(2) The services rendered by technicians, nurses' aides or their equivalent trained and employed in public or private hospitals and licensed long-term care facilities except the services rendered in licensed long-term care facilities shall be limited to administering medication, excluding injectable other than insulin;

- (3) The providing of nursing care by friends or members of the family of the person receiving such care;
- (4) The incidental care of the sick, aged, or infirm by domestic servants or persons primarily employed as housekeepers;
- (5) The furnishing of nursing assistance in the case of an emergency situation;
- (6) The practice of nursing under proper supervision:
 - (a) As a part of the course of study by students enrolled in approved schools of professional nursing or in schools of practical nursing;
 - (b) By graduates of accredited nursing programs pending the results of the first licensing examination or ninety days after graduation, whichever first occurs;
 - (c) A graduate nurse who is prevented from attending the first licensing examination following graduation by reason of active duty in the military may practice as a graduate nurse pending the results of the first licensing examination scheduled by the board following the release of such graduate nurse from active military duty or pending the results of the first licensing examination taken by the graduate nurse while involved in active military service whichever comes first;
- (7) The practice of nursing in this state by any legally qualified nurse duly licensed to practice in another state whose engagement requires such nurse to accompany and care for a patient temporarily residing in this state for a period not to exceed six months;
- (8) The practice of any legally qualified nurse who is employed by the government of the United States or any bureau, division or agency thereof, while in the discharge of his or her official duties or to the practice of any legally qualified nurse serving in the armed forces of the United States while stationed within this state;
- (9) Nonmedical nursing care of the sick with or without compensation when done in connection with the practice of the religious tenets of any church by adherents thereof, as long as they do not engage in the practice of nursing as defined in sections 335.011 to 335.096;
- (10) The practice of any legally qualified and licensed nurse of another state, territory, or foreign country whose responsibilities include transporting patients into, out of, or through this state while actively engaged in patient transport that does not exceed forty-eight hours in this state.**

337.528. CONFIDENTIALITY OF COMPLAINT DOCUMENTATION, WHEN — DESTRUCTION OF INFORMATION PERMITTED, WHEN. — 1. If the committee finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections **or by an individual who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513** and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 337.525 have been violated. Any case file documentation that does not result in the committee filing an action under subsection 2 of section 337.525 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 337.525 have been violated.

2. Upon written request of the licensed professional counselor subject to a complaint, prior to August 28, 2007, by an individual incarcerated or under the care and control of the department of corrections **or prior to August 28, 2010, by an individual who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513** that did not result in the committee filing an action under subsection 2 of section 337.525, the committee and the division of professional registration shall in a timely fashion:

- (1) Destroy all documentation regarding the complaint;
- (2) Notify any other licensing board in another state or any national registry regarding the committee's actions if they have been previously notified of the complaint; and

(3) Send a letter to the licensee that clearly states that the committee found the complaint to be unsubstantiated, that the committee has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their counseling professions.

337.600. DEFINITIONS. — As used in sections 337.600 to 337.689, the following terms mean:

(1) "Advanced macro social worker", the applications of social work theory, knowledge, methods, principles, values, and ethics; and the professional use of self to community and organizational systems, systemic and macrocosm issues, and other indirect nonclinical services; specialized knowledge and advanced practice skills in case management, information and referral, nonclinical assessments, counseling, outcome evaluation, mediation, nonclinical supervision, nonclinical consultation, expert testimony, education, outcome evaluation, research, advocacy, social planning and policy development, community organization, and the development, implementation and administration of policies, programs, and activities. A licensed advanced macro social worker may not treat mental or emotional disorders or provide psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a mental disorder;

(2) "Clinical social work", the application of social work theory, knowledge, values, methods, principles, and techniques of case work, group work, client-centered advocacy, community organization, administration, planning, evaluation, consultation, research, psychotherapy and counseling methods and techniques to persons, families and groups in assessment, diagnosis, treatment, prevention and amelioration of mental and emotional conditions;

(3) "Committee", the state committee for social workers established in section 337.622;

(4) "Department", the Missouri department of insurance, financial institutions and professional registration;

(5) "Director", the director of the division of professional registration;

(6) "Division", the division of professional registration;

(7) "Independent practice", any practice of social workers outside of an organized setting such as a social, medical, or governmental agency in which a social worker assumes responsibility and accountability for services required;

(8) "Licensed advanced macro social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as an advanced macro social worker, and who holds a current valid license to practice as an advanced macro social worker;

(9) "Licensed baccalaureate social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a baccalaureate social worker, and who holds a current valid license to practice as a baccalaureate social worker;

(10) "Licensed clinical social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a clinical social worker, and who holds a current, valid license to practice as a clinical social worker;

(11) "Licensed master social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the

person is trained, experienced, and licensed as a master social worker, and who holds a current valid license to practice as a master social worker. A licensed master social worker may not treat mental or emotional disorders, provide psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a mental disorder;

(12) "Master social work", the application of social work theory, knowledge, methods, and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, communities, institutions, government agencies, or corporations. The practice includes the applications of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, mediation, information and referral, counseling, client education, supervision, consultation, education, research, advocacy, community organization and development, planning, evaluation, implementation and administration of policies, programs, and activities. Under supervision as provided in this section, the practice of master social work may include the practices reserved to clinical social workers or advanced macro social workers **for no more than forty-eight consecutive calendar months for the purpose of obtaining licensure under section 337.615 or 337.645;**

(13) "Practice of advanced macro social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions, corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of advanced practice macro social work;

(14) "Practice of baccalaureate social work", rendering, offering to render, or supervising those who render to individuals, families, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of baccalaureate social work;

(15) "Practice of clinical social work", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of clinical social work;

(16) "Practice of master social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions, corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of master social work;

(17) ["Provisional licensed clinical social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed clinical social worker, other than the supervised clinical social work experience prescribed by subdivision (2) of subsection 1 of section 337.615, and who is supervised by a person who is qualified to practice clinical social work, as defined by rule;

(18)] "Qualified advanced macro supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor or a licensed advanced macro social worker who has:

(a) Practiced in the field of **social work as a licensed social worker** for which he or she is supervising the applicant for a minimum [uninterrupted period] of five years;

(b) Successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work Boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

[(19)] (18) "Qualified baccalaureate supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor, qualified master supervisor, qualified advanced macro supervisor, or a licensed baccalaureate social worker who has:

(a) Practiced in the field of **social work as a licensed social worker** for which he or she is supervising the applicant for a minimum [uninterrupted period] of five years;

(b) Successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work Boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social workers; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

~~[(20)]~~ **(19)** "Qualified clinical supervisor", any licensed clinical social worker who has:

(a) Practiced in the field of **social work as a licensed social worker** for which he or she is supervising the applicant [uninterrupted since August 28, 2004, or] **for** a minimum of five years;

(b) Successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work Boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

~~[(21)]~~ **(20)** "Social worker", any individual that has:

(a) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(b) Received a doctorate or Ph.D. in social work; or

(c) A current social worker license as set forth in sections 337.600 to 337.689.

337.603. LICENSE REQUIRED—EXEMPTIONS FROM LICENSURE. — No person shall use the title of "licensed clinical social worker"[, or "clinical social worker" [or "provisional licensed clinical social worker"]], or engage in the practice of clinical social work in this state, unless the person is licensed as required by the provisions of sections 337.600 to 337.689. Only individuals who are licensed clinical social workers shall practice clinical social work. Sections 337.600 to 337.689 shall not apply to:

(1) Any person registered, certificated, or licensed by this state, another state, or any recognized national certification agent acceptable to the committee to practice any other occupation or profession while rendering services similar in nature to clinical social work in the performance of the occupation or profession which the person is registered, certificated, or licensed; and

(2) The practice of any social worker who is employed by any agency or department of the state of Missouri while discharging the person's duties in that capacity.

337.615. EDUCATION, EXPERIENCE REQUIREMENTS — RECIPROCITY — LICENSES ISSUED, WHEN. — 1. Each applicant for licensure as a clinical social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has completed three thousand hours of supervised clinical experience with a qualified clinical supervisor, as defined in section 337.600, in no less than twenty-four months and no more than forty-eight consecutive calendar months;

(3) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice clinical social work who has had no disciplinary action taken against the license, certificate of registration, or permit for the preceding five years may be granted a license to practice clinical social work in this state if the person meets one of the following criteria:

(1) Has received a masters or doctoral degree from a college or university program of social work accredited by the council of social work education and has been licensed to practice clinical social work for the preceding five years; or

(2) Is currently licensed or certified as a clinical social worker in another state, territory of the United States, or the District of Columbia having substantially the same requirements as this state for clinical social workers.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section. [The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision (2) of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.]

337.618. LICENSE EXPIRATION, RENEWAL, FEES, CONTINUING EDUCATION REQUIREMENTS. — Each license issued pursuant to the provisions of sections 337.600 to 337.689 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months. The committee shall require a minimum number of thirty clock hours of continuing education for renewal of a license issued pursuant to sections 337.600 to 337.689. The committee shall renew any license[, other than a provisional license,] upon application for a renewal, completion of the required continuing education hours and upon payment of the fee established by the committee pursuant to the provisions of section 337.612. As provided by rule, the board may waive or extend the time requirements for completion of continuing education for reasons related to health, military service, foreign residency, or for other good cause. All requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date.

337.643. LICENSURE REQUIRED FOR USE OF TITLE — PRACTICE AUTHORIZED. — 1. No person shall use the title of licensed master social worker and engage in the practice of master social work in this state unless the person is licensed as required by the provisions of this section and section 337.644.

2. A licensed master social worker shall be deemed qualified to practice the applications of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. "Master social work practice" includes the applications of specialized knowledge and advanced practice skills in the management, information and referral, counseling, supervision, consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities. Under supervision as provided in sections 337.600 to 337.689, the practice of master social work may include the practices reserved to clinical social workers or advanced

macro social workers **for no more than forty-eight consecutive calendar months for the purpose of obtaining licensure under section 337.615 or 337.645.**

337.700. DEFINITIONS. — As used in sections 337.700 to 337.739, the following terms mean:

- (1) "Committee", the state committee for [family and] marital **and family** therapists;
- (2) "Department", the Missouri department of insurance, financial institutions and professional registration;
- (3) "Director", the director of the division of professional registration;
- (4) "Division", the division of professional registration;
- (5) "Fund", the marital and family therapists' fund created in section 337.712;
- (6) "Licensed marital and family therapist", a person to whom a license has been issued pursuant to the provisions of sections 337.700 to 337.739, whose license is in force and not suspended or revoked;
- (7) "Marital and family therapy", the use of scientific and applied marriage and family theories, methods and procedures for the purpose of describing, diagnosing, evaluating and modifying marital, family and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution. Marriage and family therapy is based on systems theories, marriage and family development, normal and dysfunctional behavior, human sexuality and psychotherapeutic, marital and family therapy theories and techniques and includes the use of marriage and family therapy theories and techniques in the diagnosis, evaluation, assessment and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems. Marriage and family therapy may also include clinical research into more effective methods for the treatment and prevention of the above-named conditions;
- (8) "Practice of marital and family therapy", the rendering of professional marital and family therapy services to individuals, family groups and marital pairs, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise;
- (9) "**Provisional licensed marital and family therapist**", **any person who is a graduate of an acceptable education institution described in subsection 1 of section 337.715 with at least a master's degree in marital and family therapy, or its equivalent as defined by state committee regulation, and meets all requirements of a licensed marital and family therapist other than the supervised clinical experience set forth in section 337.715, and who is supervised by a person who is qualified to be a supervisor, as defined by state committee regulation.**

337.703. LICENSE REQUIRED, EXCEPTIONS. — No person shall use the title of "licensed marital and family therapist", "marital and family therapist", "provisional **licensed** marital and family therapist", or engage in the practice of marital and family therapy in this state unless the person is licensed as required by the provisions of sections 337.700 to 337.739. Sections 337.700 to 337.739 shall not apply to:

- (1) Any person registered, certificated or licensed by this state, another state or any recognized national certification agent acceptable to the division to practice any other occupation or profession while rendering services similar in nature to marital and family therapy in the performance of the occupation or profession in which the person is registered, certificated or licensed, so long as the person does not use the title of "licensed marital and family therapist", "marital and family therapist", or "provisional **licensed** marital and family therapist";
- (2) The practice of any marital and family therapist who is employed by any political subdivision, school district, agency or department of the state of Missouri while discharging the therapist's duties in that capacity; and

(3) Duly ordained ministers or clergy, religious workers and volunteers or Christian Science Practitioners.

337.705. DISCRIMINATION PROHIBITED, WHEN. — No official, employee, board, commission, or agency of the state of Missouri, any county, municipality, school district, or other political subdivision of this state shall discriminate between persons licensed under sections 337.700 to 337.739 when promulgating rules or when requiring or recommending services that legally may be performed by persons licensed under sections 337.700 to 337.739.

337.706. LICENSE REQUIRED, EXCEPTION FOR PERSONS LICENSED IN OTHER STATE. —

1. For a period of six months from September 1, 1995, a person may apply for licensure without examination and shall be exempt from the academic requirements of sections 337.700 to 337.739 if the division is satisfied that the applicant:

- (1) Has been a resident of the state of Missouri for at least the last six months; and
- (2) Holds a valid license as a marital and family therapist from another state.

2. The division may determine by administrative rule the types of documentation needed to verify that an applicant meets the qualifications provided in subsection 1 of this section.

3. [After March 1, 1996,] No person may engage in marital and family therapy for compensation or hold himself or herself out as a "licensed marital and family therapist", "marital and family therapist", [or] "provisional **licensed** marital and family therapist", or "**supervised marital and family therapist**" unless the person complies with all educational and examination requirements and is licensed in accordance with the provisions of sections 337.700 to 337.739.

337.715. QUALIFICATIONS FOR LICENSURE, EXCEPTIONS. — 1. Each applicant for licensure or **provisional licensure** as a marital and family therapist shall furnish evidence to the committee that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy, or its equivalent **as defined by committee regulation**, from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education;

(2) The applicant **for licensure as a marital and family therapist** has twenty-four months of postgraduate supervised clinical experience acceptable to the [division] **committee**, as the [division] **state committee** determines by rule;

(3) After August 28, 2008, the applicant shall have completed a minimum of three semester hours of graduate-level course work in diagnostic systems either within the curriculum leading to a degree as defined in subdivision (1) of this subsection or as post-master's graduate-level course work. Each applicant shall demonstrate supervision of diagnosis as a core component of the postgraduate supervised clinical experience as defined in subdivision (2) of this subsection;

(4) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications research and its interpretation and professional affairs and ethics;

(5) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person otherwise qualified for licensure holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice marriage and family therapy may be granted a license without examination to engage in the practice of marital and family therapy in this state upon application to the state committee, payment of the required fee as established by the state committee, and satisfaction of the following:

(1) Determination by the state committee that the requirements of the other state or territory are substantially the same as Missouri;

(2) Verification by the applicant's licensing entity that the applicant has a current license; and

(3) Consent by the applicant to examination of any disciplinary history in any state.

3. The state committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.700 to 337.739.

337.718. LICENSE EXPIRATION, RENEWAL FEE — TEMPORARY PERMITS. — 1. Each license issued pursuant to the provisions of sections 337.700 to 337.739 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon application for a renewal and upon payment of the fee established by the division pursuant to the provisions of section 337.712. Effective August 28, 2008, as a prerequisite for renewal, each [licensee] **licensed marital and family therapist** shall furnish to the committee satisfactory evidence of the completion of the requisite number of hours of continuing education as defined by rule, which shall be no more than forty contact hours biennially. The continuing education requirements may be waived by the committee upon presentation to the committee of satisfactory evidence of illness or for other good cause.

2. The committee may issue temporary permits to practice under extenuating circumstances as determined by the committee and defined by rule.

337.727. RULEMAKING AUTHORITY. — The committee shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.700 to 337.739 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.700 to 337.739;

(3) The content, conduct and administration of the licensing examination required by section 337.715;

(4) The characteristics of supervised clinical experience as that term is used in section 337.715;

(5) The equivalent of the basic educational requirements set forth in section 337.715;

(6) The standards and methods to be used in assessing competency as a [licensed] marital and family therapist;

(7) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring under the provisions of sections 337.700 to 337.739;

(8) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing under the constitution or laws of this state;

(9) Establishment of a policy and procedure for reciprocity with other states, including states which do not have marital and family therapist licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(10) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.700 to 337.739.

337.739. COMMITTEE, MEMBERS, QUALIFICATIONS, TERMS, MEETINGS, EXPENSES, REMOVAL. — 1. There is created and established the "State Committee of Marital and Family Therapists" which shall consist of four family and marital therapists and two voting public members. The committee shall be appointed by the governor with the advice and consent of the senate. Committee members shall serve for a term of five years, except for the members first

appointed, one public member and one other member shall be appointed for five years, two members shall be appointed for four years, the other public member and one other member appointed for three years. No person shall be eligible for appointment to the committee who has served as a member of the committee for a total of ten years. Members shall be appointed to represent a diversity in gender, race and ethnicity. No more than three members shall be from the same political party.

2. Each nonpublic committee member shall be a resident of the state of Missouri for one year, shall be a United States citizen, and shall meet all the requirements for licensing enumerated in sections 337.700 to 337.739, shall be licensed [pursuant to] **as a licensed marital and family therapist under** sections 337.700 to 337.739, except the members of the first committee, who shall be licensed within six months of their appointment, and are actively engaged in the practice of marital and family therapy. If a member of the committee shall, during the member's term as a committee member, remove the member's domicile from the state of Missouri, then the committee shall immediately notify the governor, and the seat of that committee member shall be declared vacant. All such vacancies shall be filled by appointment as in the same manner as the first appointment, and the member so appointed shall serve for the unexpired term of the member whose seat has been declared vacant. The public members shall be at the time of each member's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; a person who does not have and never has had a material, financial interest in either the provision of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter.

3. The committee shall hold a regular annual meeting at which it shall select from among its members a chairman and a secretary. A quorum of the committee shall consist of a majority of its members. In the absence of the chairman, the secretary shall conduct the office of the chairman.

4. No member of the committee shall receive any compensation for the performance of the member's official duties but shall be entitled to reimbursement for necessary and actual expenses incurred in the performance of the member's duties. The committee shall share resources and facilities with the office for the committee for professional counselors provided for in sections 337.500 to 337.540. All staff for the committee shall be provided by the director of the division of professional registration.

5. The governor may remove any member of the committee for misconduct, inefficiency, incompetency or neglect of office.

338.333. LICENSE REQUIRED, TEMPORARY LICENSES MAY BE GRANTED — OUT-OF-STATE DISTRIBUTORS, RECIPROCITY ALLOWED, WHEN. — 1. No person or distribution outlet shall act as a wholesale drug distributor or pharmacy distributor without first obtaining license to do so from the Missouri board of pharmacy and paying the required fee. The board may grant temporary licenses when the wholesale drug distributor or pharmacy distributor first applies for a license to operate within the state. Temporary licenses shall remain valid until such time as the board shall find that the applicant meets or fails to meet the requirements for regular licensure. No license shall be issued or renewed for a wholesale drug distributor or pharmacy distributor to operate unless the same shall be operated in a manner prescribed by law and according to the rules and regulations promulgated by the board of pharmacy with respect thereto. Separate licenses shall be required for each distribution site owned or operated by a wholesale drug distributor or pharmacy distributor, **unless such drug distributor or pharmacy distributor meets the requirements of section 338.335.**

2. An agent or employee of any licensed or registered wholesale drug distributor or pharmacy distributor need not seek licensure under this section and may lawfully possess pharmaceutical drugs, if he is acting in the usual course of his business or employment.

3. The board may permit out-of-state wholesale drug distributors or out-of-state pharmacy distributors to be licensed as required by sections 338.210 to 338.370 on the basis of reciprocity to the extent that an out-of-state wholesale drug distributor or out-of-state pharmacy distributor both:

- (1) Possesses a valid license granted by another state pursuant to legal standards comparable to those which must be met by a wholesale drug distributor or pharmacy distributor of this state as prerequisites for obtaining a license under the laws of this state; and
- (2) Distributes into Missouri from a state which would extend reciprocal treatment under its own laws to a wholesale drug distributor or pharmacy distributor of this state.

338.335. SEPARATE LICENSES REQUIRED, WHEN — EXEMPTIONS. — 1. Separate licenses shall be required for each distribution site owned or operated by a wholesale drug distributor or pharmacy distributor unless drugs are delivered only on a consignment basis as defined by the board, **or the entity meets the requirements of subsection 2 of this section.**

2. A wholesale drug distributor distributing drug-related devices in Missouri is not required to obtain a license from the board for out-of-state distribution sites owned by the wholesale drug distributor if:

- (1) The wholesale drug distributor has one or more distribution sites located in Missouri, and all such in-state distribution sites receiving shipments of drug-related devices are licensed by the board as a distributor;**
- (2) The wholesale drug distributor's out-of-state distribution sites shipping to the in-state distribution site are in compliance with their respective state's licensing laws;**
- (3) The wholesale drug distributor's out-of-state distribution sites that deliver drug-related devices regulated by the board into Missouri for patient use, deliver such devices only to the licensed wholesale drug distributor's in-state distribution site.**

3. A Missouri wholesale drug distributor receiving shipments of drug-related devices from an out-of-state facility that is not required to be licensed as a distributor pursuant to subsection 2 of this section shall be responsible for all shipments received.

338.337. OUT-OF-STATE DISTRIBUTORS, LICENSES REQUIRED, EXCEPTION. — It shall be unlawful for any out-of-state wholesale drug distributor or out-of-state pharmacy acting as a distributor to do business in this state without first obtaining a license to do so from the board of pharmacy and paying the required fee, **except as otherwise provided by section 338.335 and this section.** Application for an out-of-state wholesale drug distributor's license under this section shall be made on a form furnished by the board. The issuance of a license under sections 338.330 to 338.370 shall not change or affect tax liability imposed by the Missouri department of revenue on any out-of-state wholesale drug distributor or out-of-state pharmacy. Any out-of-state wholesale drug distributor that is a drug manufacturer and which produces and distributes from a facility which has been inspected and approved by the Food and Drug Administration, maintains current approval by the federal Food and Drug Administration, and has provided a copy of the most recent Food and Drug Administration Establishment Inspection Report to the board, and which is licensed by the state in which the distribution facility is located, or, if located within a foreign jurisdiction, is authorized and in good standing to operate as a drug manufacturer within such jurisdiction, need not be licensed as provided in this section but such out-of-state distributor shall register its business name and address with the board of pharmacy and pay a filing fee in an amount established by the board.

344.010. DEFINITIONS. — As used in this chapter the following words or phrases mean:

- (1) "Board", the Missouri board of nursing home administrators;
 - (2) "Long-term care facility", any residential care facility, assisted living facility, intermediate care facility or skilled nursing facility, as defined in section 198.006, RSMo, or similar facility licensed by states other than Missouri;
-

(3) "Nursing home", any institution or facility defined as an assisted living facility, **residential care facility**, intermediate care facility, or skilled nursing facility for licensing purposes by section 198.006, RSMo, whether proprietary or nonprofit;

(4) "Nursing home administrator", a person who administers, manages, supervises, or is in general administrative charge of a nursing home, whether such individual has an ownership interest in the home, and whether his functions and duties are shared with one or more individuals.

344.020. LICENSE REQUIRED — SEPARATE LICENSE FOR ASSISTED LIVING FACILITIES ADMINISTRATORS, LIMITATIONS OF LICENSE. — No person shall act or serve in the capacity of a nursing home administrator without first procuring a license from the Missouri board of nursing home administrators as provided in sections 344.010 to 344.108. The board may issue a separate license to administrators of **residential care facilities that were licensed as a residential care facility II on or before August 27, 2006, that continue to meet the licensure standards for a residential care facility II in effect on August 27, 2006,** and assisted living facilities, as defined in section 198.006, RSMo. Any individual who receives a license to operate **a residential care facility** or an assisted living facility is not thereby authorized to operate any intermediate care facility or skilled nursing facility as those terms are defined in section 198.006, RSMo.

383.130. DEFINITIONS. — As used in sections 383.130 and 383.133, the following terms shall mean:

(1) "Disciplinary action", any final action taken by the board of trustees or similarly empowered officials of a hospital [or] , ambulatory surgical center, [or] owner or operator of a temporary nursing staffing agency, **home health agency, nursing home or any nursing facility as such term is defined in chapter 198, or any entity that employs or contracts with licensed health care professionals to provide healthcare services to individuals** to reprimand, discipline or restrict the practice of a health care professional. Only such reprimands, discipline, or restrictions in response to activities which are also grounds for disciplinary actions according to the professional licensing law for that health care professional shall be considered disciplinary actions for the purposes of this definition;

(2) "Health care professional", a physician or surgeon licensed under the provisions of chapter 334, RSMo, a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist licensed under the provisions of chapter 330, RSMo, or a pharmacist licensed under the provisions of chapter 338, RSMo, a psychologist licensed under the provisions of chapter 337, RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, while acting within their scope of practice;

(3) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide for not less than twenty-four hours in any week medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198, RSMo;

(4) "Licensing authority", the appropriate board or authority which is responsible for the licensing or regulation of the health care professional;

(5) "Temporary nursing staffing agency", any person, firm, partnership, or corporation doing business within the state that supplies, on a temporary basis, registered nurses, licensed practical nurses to a hospital, nursing home, or other facility requiring the services of those persons.

383.133. REPORTS BY HOSPITALS, AMBULATORY SURGICAL CENTERS, NURSING HOMES, AND LICENSING AUTHORITIES, WHEN, CONTENTS, LIMITED USE, PENALTY. — 1. The chief executive officer or similarly empowered official of any hospital, ambulatory surgical center, as such terms are defined in chapter 197, RSMo, [or] temporary nursing staffing agency, **nursing home, any nursing facility as such term is defined in chapter 198, or any entity that employs or contracts with licensed health care professionals to provide healthcare services to individuals** shall report to the appropriate health care professional licensing authority any disciplinary action against any health care professional or the voluntary resignation of any health care professional against whom any complaints or reports have been made which might have led to disciplinary action.

2. All reports required by this section shall be submitted within fifteen days of the final disciplinary action and shall contain, but need not be limited to, the following information:

- (1) The name, address and telephone number of the person making the report;
- (2) The name, address and telephone number of the person who is the subject of the report;
- (3) A description of the facts, including as much detail and information as possible, which gave rise to the issuance of the report, including the dates of occurrence deemed to necessitate the filing of the report;
- (4) If court action is involved and known to the reporting agent, the identity of the court, including the date of filing and the docket number of the action.

3. Upon request, the licensing authority may furnish a report of any disciplinary action received by it under the provisions of this section to any entity required to report under this section. Such licensing authority may also furnish, upon request, a report of disciplinary action taken by the licensing authority to any other administrative or law enforcement agency acting within the scope of its statutory authority.

4. There shall be no liability on the part of, and no cause of action of any nature shall arise against any health care professional licensing authority or any entity required to report under this section, or any of their agents or employees for any action taken in good faith and without malice in carrying out the provisions of this section.

5. Neither a report required to be filed under subsection 2 of this section nor the record of any proceeding shall be used against a health care professional in any other administrative or judicial proceeding.

6. Violation of any provision of this section is an infraction.

SECTION 1. ADJACENT PROPERTY, HOSPITAL MAY REVISE PREMISES OF CAMPUS FOR LICENSURE PURPOSES. — **An applicant for or holder of a hospital license may define or revise the premises of a hospital campus to include tracts of property which are adjacent but for a common street or highway, as defined in section 300.010 and its accompanying public right-of-way.**

[214.290. MINIMUM ENDOWED CARE AND MAINTENANCE FUND ON ELECTION. — Any cemetery operator who within ninety days from the effective date of sections 214.270 to 214.410 elects to operate a cemetery which exists on the effective date of sections 214.270 to 214.410 as an endowed care cemetery or who represents to the public that perpetual, permanent, endowed, continual, eternal care, care of duration or similar care will be furnished cemetery property sold, shall before selling or disposing of any interment space or lots in said cemetery after the date of such election, establish a minimum endowed care and maintenance fund in cash in the amount required by section 214.300 unless an endowed care fund is already

in existence to which regular deposits have been made (whether or not the fund then existing shall be in the minimum amount required under section 214.300).]

Approved July 7, 2010

HB 2231 [HCS HB 2231]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the disposition of cremated human remains by a licensed funeral establishment

AN ACT to repeal section 194.350, RSMo, and to enact in lieu thereof one new section relating to cremation of human remains.

SECTION

A. Enacting clause.

194.350. Disposition of cremated remains — if no directions are given, procedure, notice.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 194.350, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 194.350, to read as follows:

194.350. DISPOSITION OF CREMATED REMAINS — IF NO DIRECTIONS ARE GIVEN, PROCEDURE, NOTICE. — A licensed funeral establishment which cremates, or contracts for the cremation of, a dead human body, whether the cremation occurs before or after August 28, 1989, may dispose of the cremated remains by:

(1) **Disposing the remains in accordance with the cremation contract, except if otherwise prohibited by law;**

(2) Delivering the remains to or as directed by another licensed funeral establishment which contracted for the cremation;

[(2)] (3) Delivering the remains to or as directed by the person who contracted for the cremation; or

[(3)] (4) If not delivered pursuant to subdivision [(1) or] (2) or (3) of this section, by scattering, **burying**, or interring the unclaimed cremated remains in a scatter garden or pond, columbarium or other place formally dedicated for [the burial of dead human bodies] **such purpose or by delivering the remains to any person listed in section 194.119**, provided, at least ninety days prior to such [scattering or interment] **action** the funeral establishment shall send a written notice by [certified mail, return receipt requested, to the licensed funeral establishment or person who] **mail, with confirmation of delivery, to the last known address of the person or establishment that** contracted for the cremation stating that the remains will be scattered or interred under this subdivision unless the notified establishment or person, or other person authorized by the notified establishment or person, claims and removes the remains prior to the end of such ninety-day period[, and provided further, if such mailed notice cannot be delivered, at least thirty days prior to such scattering or interment the funeral establishment shall publish a notice once in a newspaper in general circulation in the county in which the funeral establishment is located stating that the remains will be scattered or interred under this subdivision unless the licensed funeral establishment or person who contracted for the cremation,

or other person authorized by the contracting establishment or person, claims and removes the remains prior to the end of such thirty-day period].

Approved July 2, 2010

HB 2262 [HCS HB 2262 & 2264]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows the Adjutant General to establish the Missouri Youth Challenge Academy for at-risk high school age youth

AN ACT to amend chapter 41, RSMo, by adding thereto two new sections relating to the Missouri youth challenge academy, with an emergency clause.

SECTION

- A. Enacting clause.
- 41.206. Missouri Youth Challenge Academy authorized, purpose — rulemaking authority.
- 41.207. Missouri Youth Challenge Foundation Fund created, use of moneys.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 41, RSMo, is amended by adding thereto two new sections, to be known as sections 41.206 and 41.207, to read as follows:

41.206. MISSOURI YOUTH CHALLENGE ACADEMY AUTHORIZED, PURPOSE — RULEMAKING AUTHORITY. — **1. The adjutant general may establish the "Missouri Youth Challenge Academy" in order to provide positive interventions in the lives of at-risk high school age youth. The academy will utilize residential military-based training and supervised work experience to build life skills of high school dropouts. Academy participants will receive training that focuses on responsible citizenship, life-coping skills, academic skills, job training and placement, physical fitness, services to the community, personal development, group skills, professional values, and additional subjects as directed by the adjutant general.**

2. Rules necessary to administer and implement this section may be established by the adjutant general. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

41.207. MISSOURI YOUTH CHALLENGE FOUNDATION FUND CREATED, USE OF MONEYS. — **The "Missouri Youth Challenge Foundation Fund" is hereby created in the state treasury and shall consist of all gifts, donations, appropriations, transfers, and bequests to the fund. The adjutant general shall have the power to make grants from the fund to support the Missouri youth challenge academy as specified in section 41.206. The provisions of section 33.080 requiring all unexpended balances remaining in various state funds to be transferred and placed to the credit of the general revenue fund of the state**

at the end of each biennium shall not apply to the Missouri youth challenge foundation fund. Interest and moneys earned on the fund shall be credited to the fund. Moneys in the fund shall be used for the sole purpose of funding the Missouri youth challenge academy established under section 41.206.

SECTION B. EMERGENCY CLAUSE. — Because of the need to address high school dropout rates in Missouri, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 27, 2010

HB 2270 [HB 2270]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows child abuse medical resource centers and SAFE CARE providers to collaborate to promote improved services to children who are suspected victims of abuse in need of a forensic medical exam

AN ACT to amend chapter 334, RSMo, by adding thereto one new section relating to SAFE CARE providers.

SECTION

A. Enacting clause.

334.950. Collaboration between providers and medical resource centers — definitions — recommendations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 334, RSMo, is amended by adding thereto one new section, to be known as section 334.950, to read as follows:

334.950. COLLABORATION BETWEEN PROVIDERS AND MEDICAL RESOURCE CENTERS — DEFINITIONS — RECOMMENDATIONS. — 1. As used in this section, the following terms shall mean:

(1) "Child abuse medical resource centers", medical institutions affiliated with accredited children's hospitals or recognized institutions of higher education with accredited medical school programs that provide training, support, mentoring, and peer review to SAFE CARE providers in Missouri;

(2) "SAFE CARE provider", a physician, advanced practice nurse, or physician's assistant licensed in this state who provides medical diagnosis and treatment to children suspected of being victims of abuse and who receives:

(a) Missouri-based initial intensive training regarding child maltreatment from the SAFE CARE network;

(b) Ongoing update training on child maltreatment from the SAFE CARE network;

(c) Peer review and new provider mentoring regarding the forensic evaluation of children suspected of being victims of abuse from the SAFE CARE network;

(3) "Sexual assault forensic examination child abuse resource education network" or "SAFE CARE network", a network of SAFE CARE providers and child abuse medical resource centers that collaborate to provide forensic evaluations, medical training,

support, mentoring, and peer review for SAFE CARE providers for the medical evaluation of child abuse victims in this state to improve outcomes for children who are victims of or at risk for child maltreatment by enhancing the skills and role of the medical provider in a multidisciplinary context.

2. Child abuse medical resource centers may collaborate directly or through the use of technology with SAFE CARE providers to promote improved services to children who are suspected victims of abuse that will need to have a forensic medical evaluation conducted by providing specialized training for forensic medical evaluations for children conducted in a hospital, child advocacy center, or by a private health care professional without the need for a collaborative agreement between the child abuse medical resource center and a SAFE CARE provider.

3. SAFE CARE providers who are a part of the SAFE CARE network in Missouri may collaborate directly or through the use of technology with other SAFE CARE providers and child abuse medical resource centers to promote improved services to children who are suspected victims of abuse that will need to have a forensic medical evaluation conducted by providing specialized training for forensic medical evaluations for children conducted in a hospital, child advocacy center, or by a private health care professional without the need for a collaborative agreement between the child abuse medical resource center and a SAFE CARE provider.

4. The SAFE CARE network shall develop recommendations concerning medically based screening processes and forensic evidence collection for children who may be in need of an emergency examination following an alleged sexual assault. Such recommendations shall be provided to the SAFE CARE providers, child advocacy centers, hospitals and licensed practitioners that provide emergency examinations for children suspected of being victims of abuse.

Approved July 14, 2010

HB 2285 [SCS HB 2285]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires each member of the General Assembly to be provided a key which accesses the State Capitol dome and authorizes the Governor to convey certain state property

AN ACT to amend chapter 8, RSMo, by adding thereto twelve new sections relating to state properties and the conveyance thereof.

SECTION

- A. Enacting clause.
- 8.016. State capitol dome key, members of general assembly to be provided with — training required.
 - 1. Governor authorized to convey property in Nodaway County to City of Maryville.
 - 2. Governor authorized to convey property at Veterans Home in Cape Girardeau County to City of Cape Girardeau.
 - 3. Governor authorized to vacate easement at Missouri Lottery Headquarters, Jefferson City, Cole County, to owners of certain private property.
 - 4. Governor authorized to convey property at Church Farm, Cole County, to any person at a public offering.
 - 5. Governor authorized to convey property at Western Missouri Mental Health Center in Kansas City, Jackson County.
 - 6. Governor authorized to convey property at South East Missouri Mental Health Center in Farmington, St. Francois County.
 - 7. Governor authorized to convey property at New Ballwin Mental Health Group Home in St. Louis County.

8. Governor authorized to convey property at Warden's Residence at the Boonville Correctional Center in Boonville, Cooper County.
9. Governor authorized to convey property in Franklin County.
10. Governor authorized to convey property at Sunrise State School in Marshfield, Webster County.
11. Governor authorized to convey property at Nevada Habilitation Center in Nevada, Vernon County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 8, RSMo, is amended by adding thereto twelve new sections, to be known as sections 8.016, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, to read as follows:

8.016. STATE CAPITOL DOME KEY, MEMBERS OF GENERAL ASSEMBLY TO BE PROVIDED WITH— TRAINING REQUIRED. — 1. The commissioner of the office of administration shall provide each member of the senate and each member of the house of representatives with a key that accesses the dome of the state capitol.

2. The president pro tem of the senate and the speaker of the house of representatives shall be responsible for providing a training program for the members and staff of the general assembly regarding access to secured areas of the capitol building. They may consult with the office of administration and department of public safety when developing such program.

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN NODAWAY COUNTY TO CITY OF MARYVILLE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in property located in Nodaway County to the City of Maryville. The property to be conveyed is more particularly described as follows:

All of a tract of land bounded by a line commencing at a point One Thousand and Fifty (1050) feet North and North Forty-three (43) degrees East Five Hundred Seventeen and one-half (517½) feet from the Southwest corner of Section Thirteen (13), in Township Sixty-four (64), of Range Thirty-six (36) and running thence East Fifty-three (53) degrees South One Hundred (100) feet, thence North Forty-three (43) degrees East Thirty (30) feet, thence North Thirty-seven (37) degrees West One Hundred (100) feet, thence South Fifty-seven (57) degrees West Thirty (30) feet to the place of beginning.

Also an easement for use in connection with an aeroplane hangar of a strip of land Seventy-five (75) feet in width immediately West of the above described real estate.

Also an easement for use in connection with an aeroplane hangar of a strip of land seventy-five (75) feet in width immediately east of the above described real estate.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY PROPERTY AT VETERANS HOME IN CAPE GIRARDEAU COUNTY TO CITY OF CAPE GIRARDEAU. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located at the Veterans Home in Cape Girardeau, Cape Girardeau County, Missouri, to the City of Cape Girardeau more particularly described as follows:

RIGHT OF WAY TRACT**RIGHT OF WAY TRACT FOR
MISSOURI VETERANS HOME
PERTAINING TO TRACTS RECORDED IN BOOK NO. 452 - PAGE 71 AND IN
BOOK NO. 677 - PAGE 395**

A PART OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 31 NORTH, RANGE 13 EAST, OF THE FIFTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at a 5/8" iron pin (found) at the south quarter corner of Section 22; Thence N 89 degrees 07' 59" W, 1,121.26 feet along the south line of the southwest quarter to a point on the east right of way line of Interstate 55, said point being 130.00 feet easterly of and normal to Interstate 55 centerline station 1065+46.97; Thence along said right of way line, N 21 degrees 17' 45" W, 1,385.92 feet to the southwest corner of a tract of land as recorded in book no. 452 at page no. 71 of the land records of the County Recorder's Office, said point being the TRUE POINT OF BEGINNING:

Thence continuing along said right of way the following courses and distances:

N 21 degrees 17' 45" W, 561.05 feet to a point being 130.00 feet easterly of and normal to the centerline of Interstate Route 55, station 1046+00.00; Thence N 18 degrees 47' 27" W, 461.53 feet to a point being 150.17 feet easterly of and normal to the centerline of Interstate Route 55, station 1041+38.91, said point being the beginning of curve concave to the southeast having a central angle of 44 degrees 15' 16" and a radius of 230.00 feet; Thence leaving said right of way line and along said curve in northwesterly and northeasterly direction, 177.65 feet; Thence N 25 degrees 27' 49" E, 127.92 feet to a point on the north line of a tract of land as recorded in book no. 677 at page no. 395; Thence along said north line, N 64 degrees 38' 07" E, 94.99 feet; Thence leaving said north line, S 25 degrees 27' 49" W, 201.56 feet to the beginning of a curve, concave to the southeast, having a central angle of 44 degrees 15' 16" and a radius of 170.00 feet; Thence along said curve in a southwesterly and southeasterly direction, 131.31 feet; Thence S 18 degrees 47' 27" E, 460.21 feet; Thence S 21 degrees 17' 45" E, 526.95 feet to a point on the south line of the afore said tract of land; Thence along said south line, S 40 degrees 02' 58" W, 68.37 feet to the True Point of Beginning, containing 1.82 acres more or less. (79,445 square feet)

2. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a permanent easement and temporary construction easement over, on, and under property owned by the state in Cape Girardeau, Cape Girardeau County, Missouri to the City of Cape Girardeau, to be more particularly described as follows:

PERMANENT SLOPE EASEMENT**PERMANENT SLOPE EASEMENT FOR
MISSOURI VETERANS HOME
PERTAINING TO TRACT RECORDED IN BOOK NO. 452 - PAGE 71**

A PART OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 31 NORTH, RANGE 13 EAST, OF THE FIFTH PRINCIPAL MERIDIAN, CITY AND

COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at a 5/8" iron pin (found) at the south quarter corner of Section 22; Thence N 89 degrees 07' 59" W, 1,121.26 feet along the south line of the southwest quarter to a point on the east right of way line of Interstate 55, said point being 130.00 feet easterly of and normal to Interstate 55 centerline station 1065+46.97; Thence along said right of way line, N 21 degrees 17' 45" W, 1,385.92 feet to the southwest corner of a tract of land as recorded in book no. 452 at page no. 71 of the land records of the County Recorder's Office; Thence N 40 degrees 02' 58" E, 68.37 feet along the south line of said tract to the TRUE POINT OF BEGINNING;

Thence continuing along said south line, N 40 degrees 02' 58" E, 17.09 feet; Thence leaving said south line, N 21 degrees 17' 45" W, 16.25 feet; Thence N 23 degrees 42' 15" E, 70.71 feet; Thence N 21 degrees 17' 45" W, 189.01 feet; Thence N 13 degrees 41' 46" E, 61.03 feet; Thence N 21 degrees 17' 45" W, 6.85 feet; Thence N 74 degrees 25' 33" W, 75.46 feet; Thence N 17 degrees 11' 40" W, 144.13 feet; Thence N 31 degrees 45' 20" W, 47.14 feet; Thence N 23 degrees 21' 53" W, 126.01 feet; Thence N 24 degrees 47' 59" W, 96.45 feet; Thence S 71 degrees 12' 33" W, 19.94 feet; Thence S 18 degrees 47' 27" E, 252.05 feet; Thence S 21 degrees 17' 45" E, 526.95 feet to the True Point of Beginning, containing 0.87 acres more or less. (37,936 square feet)

TEMPORARY CONSTRUCTION EASEMENT 1

TRACT NO. 4

MISSOURI VETERANS HOME

PERTAINING TO TRACTS RECORDED IN BOOK NO. 452 - PAGE 71 AND BOOK NO. 677 - PAGE 395

A PART OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 31 NORTH, RANGE 13 EAST, OF THE FIFTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at a 5/8" iron pin (found) at the south quarter corner of Section 22; Thence N 89° 07' 59" W, 1,121.26 feet along the south line of the southwest quarter to a point on the east right of way line of Interstate 55, said point being 130.00 feet easterly of and normal to Interstate 55 centerline station 1065+46.97; Thence along said right of way line, N 21° 17' 45" W, 1,385.92 feet to the southwest corner of a tract of land as recorded in book no. 452 at page no. 71 of the land records of the County Recorder's Office; Thence N 40° 02' 58" E, 68.37 feet along the south line of said tract to the TRUE POINT OF BEGINNING;

Thence continuing along said south line, N 40° 02' 58" E, 28.49 feet; Thence leaving said south line, N 21° 17' 45" W, 6.64 feet; Thence N 23° 42' 15" E, 70.71 feet; Thence N 21° 17' 45" W, 190.00 feet; Thence N 13° 41' 46" E, 61.03 feet; Thence N 21° 17' 45" W, 15.00 feet; Thence N 74° 25' 33" W, 75.00 feet; Thence N 17° 11' 40" W, 139.95 feet; Thence N 31° 45' 20" W, 47.68 feet; Thence N 23° 21' 53" W, 125.40 feet; Thence N 24° 47' 59" W, 95.52 feet; Thence N 18° 47' 27" W, 30.00 feet; Thence N 16° 12' 05" E, 61.03 feet; Thence N 40° 35' 32" W,

107.70 feet; Thence N 11° 40' 11" W, 98.75 feet; Thence N 20° 44' 52" E, 75.25 feet; Thence S 68° 47' 12" E, 73.68 feet; Thence N 21° 12' 53" E, 62.05 feet; Thence S 90° 00' 00" E, 29.70 feet; Thence N 0° 00' 00" E, 87.43 feet; Thence S 90° 00' 00" E, 181.00 feet; Thence N 0° 04' 00" W, 77.90 feet to a point on the south line of a tract of land as recorded in book no. 691 at page no. 299; Thence along said south line S 89° 55' 56" W, 173.35 feet to the northeast corner of a tract of land as recorded in book no. 677 at page no. 395; Thence along the north line of said tract, S 64° 38' 07" W, 81.56 feet; Thence leaving said north line, S 25° 27' 49" W, 201.56 feet to the beginning of a curve concave to the southeast having a central angle of 44° 15' 16" and a radius of 170.00 feet; Thence along said curve in a southwesterly and southeasterly direction, 131.31 feet; Thence S 18° 47' 27" E, 460.21 feet; Thence S 21° 17' 45" E, 526.95 feet to the point of beginning, containing 2.07 acres more or less. (90,353 square feet)

TEMPORARY CONSTRUCTION EASEMENT 2

TRACT NO. 4

MISSOURI VETERANS HOME

PERTAINING TO TRACTS RECORDED IN BOOK NO. 452 - PAGE 71 AND BOOK NO. 677 - PAGE 395

A PART OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 31 NORTH, RANGE 13 EAST, OF THE FIFTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at a 5/8" iron pin (found) at the south quarter corner of Section 22; Thence N 89° 07' 59" W, 1,121.26 feet along the south line of the southwest quarter to a point on the east right of way line of Interstate 55, said point being 130.00 feet easterly of and normal to Interstate 55 centerline station 1065+46.97; Thence along said right of way line, N 21° 17' 45" W, 1,385.92 feet to the southwest corner of a tract of land as recorded in book no. 452 at page no. 71 of the land records of the County Recorder's Office, said point being 130.00 feet easterly of and normal to the centerline of Interstate Route 55, station 1051+61.04; Thence N 21° 17' 45" W, 561.05 feet to a point being 130.00 feet easterly of and normal to the centerline of Interstate Route 55, station 1046+00.00; Thence N 18° 47' 27" W, 461.53 feet to a point being 150.17 feet easterly of and normal to the centerline of Interstate Route 55, station 1041+38.91, said point being the beginning of curve concave to the southeast having a central angle of 44° 15' 16" and a radius of 230.00 feet and being the TRUE POINT OF BEGINNING;

Thence leaving said right of way line and along said curve in northwesterly and northeasterly direction, 177.65 feet; Thence N 25° 27' 49" E, 127.92 feet to a point on the north line of a tract of land as recorded in book no. 677 at page no. 395; Thence along said north line, S 64° 38' 07" W, 71.24 feet; Thence leaving said north line, S 25° 27' 49" W, 5.33 feet; Thence S 05° 42' 42" W, 113.00 feet; Thence S 29° 40' 55" W, 44.31 feet to the east right of way line of Interstate Route 55; Thence along said right of way line, S 18° 47' 27" E, 107.95 feet to the point of beginning, containing 0.13 acres, more or less. (5,743 square feet)

TEMPORARY CONSTRUCTION EASEMENT 3

**TRACT NO. 4
MISSOURI VETERANS HOME
PERTAINING TO TRACT RECORDED IN BOOK NO. 452 - PAGE 71**

A PART OF THE NORTHWEST QUARTER AND A PART OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 31 NORTH, RANGE 13 EAST, OF THE FIFTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at a point on the south right of way line of U.S. Route 61, said point being 275.00 feet southwesterly of and normal to the centerline of the north bound lane of U.S. Route 61, station 911+51.76, said point also being at the intersection of said right of way line and the east line of a tract of land as recorded in the land records of the County Recorder's Office in book no. 630 at page no. 151, Thence along said south right of way line, S 58° 54' 45" E, 11.58 feet to the TRUE POINT OF BEGINNING;

Thence continuing along said south right of way line, S 58° 54' 45" E, 60.00 feet; Thence leaving said right of way line, S 31° 05' 15" W, 140.00 feet; Thence N 58° 54' 45" W, 60.00 feet; Thence N 31° 05' 15" E, 140.00 feet to the point of beginning, containing 0.19 acres more or less. (8,400 square feet)

3. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

4. The attorney general shall approve as to form the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO VACATE EASEMENT AT MISSOURI LOTTERY HEADQUARTERS, JEFFERSON CITY, COLE COUNTY, TO OWNERS OF CERTAIN PRIVATE PROPERTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located at the Missouri Lottery Headquarters, Jefferson City, Cole County, Missouri, to owners of certain private property for the purpose of vacating an easement more particularly described as follows:

Part of the Northwest quarter of Section 24, Township 44 North, Range 12 West, in the City of Jefferson, Missouri, more particularly described as follows: From the southwest corner of the Northwest quarter of the Northwest quarter of said Section 24; thence South 88 degrees 30 minutes 55 seconds east, 855.87 feet, to an old iron bar in the northwesterly right-of-way line of U.S. Highway No. 54; thence along said northwesterly right-of-way line, North 45 degrees 31 minutes 05 seconds east, 497.73 feet, to an old iron rod, at the most southerly corner of a tract conveyed to the owners of certain private property, by deed of record in Book 242, page 624, Cole County Recorder's Office; thence continuing along the northwesterly right-of-way line of said Highway No. 54, North 45 degrees 31 minutes 05 seconds east, 96.80 feet, to a right-of-way marker; thence North 28 degrees 16 minutes 17 seconds east, 16.15 feet, to the beginning point of this easement; thence continuing along said northwesterly right-of-way line, North 28 degrees 16 minutes 17 seconds east, 30.00 feet, to a point; thence North 61 degrees 43 minutes 43 seconds west, 178.29 feet, to a point; thence North 28 degrees 16 minutes 17 seconds east, 85.00 feet, to a point on the northeasterly line of the said private property owner tract; thence North 61 degrees 43 minutes 43 seconds west, along the said northeasterly line of the private property owner

tract, 15.00 feet; to the most northerly corner of said tract; thence South 28 degrees 16 minutes 17 seconds west, along the northwesterly line of said private property owner tract, 115 feet; thence South 61 degrees 43 minutes 43 seconds east, 193.29 feet, to the beginning point of this easement.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO CONVEY PROPERTY AT CHURCH FARM, COLE COUNTY, TO ANY PERSON AT A PUBLIC OFFERING. — 1. The governor is hereby authorized and empowered to sell, transfer, grant and convey, remise, release and forever quitclaim all interest in property owned by the state in Cole County which is part of the correctional facility known as the Church Farm to any person at a public offering as provided in subsection 2 of this section. The property hereby authorized to be conveyed by the governor shall be more particularly described by a survey. Such survey shall be authorized by the division of facilities management, design and construction of the office of administration pursuant to this section. For the purposes of this section, the property to be conveyed, known as the Church Farm Bottoms, is a tract of land in Cole County (approximately eleven hundred acres) lying between the Union Pacific Railroad Lines to the south and the Missouri River to the north.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO CONVEY PROPERTY AT WESTERN MISSOURI MENTAL HEALTH CENTER IN KANSAS CITY, JACKSON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located at the Western Missouri Mental Health Center in Kansas City, Jackson County, more particularly described as follows:

TRACT 115

DESCRIPTION:

A tract of land being all of Lots 1-13 and the north 15 feet of Lot 14 inclusive of Block 7, ELM GROVE ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Beginning at the East Quarter (E1/4) Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 567.58 feet; thence North 02°42'55" East, a distance of 20.00 feet to the southeast corner of Lot 15 of Block 7; thence North 02°23'59" East along the east line of said Lots 15 and 14, a distance of 35.00 feet to the Point of Beginning; thence North 87°15'03" West parallel to the south line of said Lot 14, a distance of 160.00 feet to a point on the west line of said lot; thence North 02°23'59" East along the west line of Lots 14-1 inclusive, a distance of 345.00 feet to the north line of Lot 1; thence South 87°15'03" East along the north line of Lot 1, a distance of 160.00 feet to a point on the east line of said lot; thence South

02°23'59" West along the east line of said Lots 1-14 inclusive, a distance of 345.00 feet to the Point of Beginning. The above described tract of land contains 55,199.48 square feet, more or less.

**TRACT 117
DESCRIPTION:**

A tract of land being the north 15 feet of Lot 17 and all of Lots 18-21 inclusive of ELM GROVE ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 392.91 feet; thence North 02°42'55" East, a distance of 19.89 feet to the southeast corner of said Lot 16; thence North 02°23'59" East along the east line of said Lots 16 and 17, a distance of 35.00 feet to the Point of Beginning; thence North 87°15'03" West parallel to the south line of said Lot 17, a distance of 159.68 feet to a point on the west line of Lot 17; thence North 02°23'59" East along the west line of said Lots 17-21 inclusive, a distance of 115.00 feet to the northwest corner of Lot 21; thence South 87°15'03" East along the north line of said lot, a distance of 159.68 feet to the northeast corner of said lot; thence South 02°23'59" West along the east line of said Lots 21-17 inclusive, a distance of 115.00 feet to the Point of Beginning. The above described tract of land contains 18,363.15 square feet, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO CONVEY PROPERTY AT SOUTH EAST MISSOURI MENTAL HEALTH CENTER IN FARMINGTON, ST. FRANCOIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located at the South East Missouri Mental Health Center located in Farmington, St. Francois County, more particularly described as follows:

A tract of land located in the City of Farmington, County of St. Francois and the state of Missouri, lying in a part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision files for record in Deed Book F at Page 441 of the Land records of St. Francois County, Missouri, described as follows, to-wit:

Commencing at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision; thence South 36°46'10" West 1905.10' to a found right-of-way marker on the South right-of-way of Columbia Street (Missouri Highway 221) and the Northwest corner of the United States Army Reserve Center, the POINT OF BEGINNING of the tract herein described: thence along the West line of said Army Reserve Center South 24°38'52" East 498.03' to a found No. 5 rebar marking the Southwest corner of said Army Reserve Center; thence South 16°01'44" West 238.03' to a point, thence South 25°42'29" West

2024.68' to a point; thence North 81°56'11" West 30.03' to a point on the East right-of-way of U.S. Highway 67; thence along said East right-of-way of said Highway 67 North 03°47'30" East 36.31' to a point; thence continuing along said East right-of-way North 14°42'22" East 131.51' to a point; thence continuing along said East right-of-way 03°26'38" West 201.66' to a found right-of-way marker; thence continuing along said East right-of-way North 03°45'45" East 952.18' to a point; thence continuing along said East right-of-way North 12°19'49" East 961.53' to a found right-of-way marker on the East right-of-way of U.S. Highway 72 and the South right-of-way of Columbia Street (Missouri Highway 221); thence along said South right-of-way North 40°51'00" East 127.36' to a found right-of-way marker; thence continuing along said South right-of-way North 59°52'29" East 300.57' to the point of beginning. Containing 23.96 acres, more or less. Being part of Deed Book 343 at Page 441.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO CONVEY PROPERTY AT NEW BALLWIN MENTAL HEALTH GROUP HOME IN ST. LOUIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located at the New Ballwin Mental Health Group Home located in St. Louis County, more particularly described as follows:

Parcel 1:

A tract of land in the Southwest 1/4 of Northeast 1/4 of Section 10, Township 44 North, Range 4 East in St. Louis County, Missouri, and described as: Beginning at intersection of the North line of Southwest 1/4 of Northeast 1/4 of Section 10 and the East line of New Ballwin Road, 80 feet wide, thence along the East line of New Ballwin Road, South 0 degrees 30 minutes West 234.58 feet to a point; thence South 90 degrees 00 minutes East 340 feet to a point; thence North 0 degrees 00 minutes East 183 feet to a point; thence South 90 degrees 00 minutes East 213 feet to a point; thence South 0 degrees 00 minutes West, 348 feet, more or less to a point in the centerline of a creek, thence following the centerline of said creek in a Southeast direction to its intersection with the East line of said Southwest 1/4 of Northeast 1/4, thence North 0 degrees 32 minutes 20 seconds East 717 feet to the Northeast corner of said Southwest 1/4 of Northeast 1/4, thence West along the North line of said Southwest 1/4 of Northeast 1/4, North 89 degrees 23 minutes West 1307.10 feet to a point of beginning, according to Survey executed by Clayton Surveying & Engineering Company on March 8, 1971.

Parcel 2:

A tract of land in the Southwest 1/4 of the Northeast 1/4 of Section 10, Township 44 North, Range 4 East, St. Louis County, Missouri and described as follows: Commencing at a point in the centerline of New Ballwin, 80 feet wide Road, said point being distant South 0 degrees 30 minutes West 235.00 feet from the Northwest corner of the Southwest 1/4 of the Northeast 1/4 of said Section 10; thence leaving said point and running South 90 degrees 00 minutes East, 354.00

feet to the point of beginning of the herein described tract of land, said point also being the centerline of a creek as located by Rowland Surveying Company, Inc., December 11, 1969; thence continuing South 90 degrees 00 minutes East 26.00 feet to a point; thence North 0 degrees 00 minutes East, 183.00 feet to a point; thence South 90 degrees 00 minutes East 213.00 feet to a point; thence South 0 degrees 00 minutes West, 348 feet, more or less to a point in the centerline of the aforementioned creek; thence along the centerline meanders of said creek Westwardly; Northwardly and Northwestwardly to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 8. GOVERNOR AUTHORIZED TO CONVEY PROPERTY AT WARDEN'S RESIDENCE AT THE BOONVILLE CORRECTIONAL CENTER IN BOONVILLE, COOPER COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located at the Warden's Residence at the Boonville Correctional Center located in Boonville, Cooper County, more particularly described as follows:

A tract of land in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 36, T49N, R17W, Cooper County, Missouri, being more particularly described as follows:

Starting at the Northwest Corner of Section 36, T49N, R17W; thence N86°-46'-30"E, along the North Line of said Section, 675.61 feet to the northerly extension of the West Line of the Boonville Correctional Facility; thence S2°-32'-35"W, along said line extended, 40.57 feet to the South right-of-way line of Morgan Street and the point of beginning.

From the point of beginning, N88°-13'-15"E, along said right-of-way line, 409.00 feet; thence S4°-03'-10"W 385.00 feet; thence S88°-05'-30"W 398.90 feet to the West Line of said facility as established per surveys recorded in Surveyor's Record Book 8, Page 108 and Page 199; thence N2°-32'-35"E, along said West Line, 385.00 feet to the point of beginning and containing 3.56 acres.

This tract is subject to easements and restrictions of record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 9. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN FRANKLIN COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Franklin County, Missouri, more particularly described as follows:

Tract No. 500

A tract of land situated in the County of Franklin, State of Missouri, being part of the southeast quarter of section 7, and the northwest quarter of the southwest

quarter of section 8, township 42 north, range 2 west of the 5th principal meridian, and being more particularly described as follows:

Beginning at the southeast corner of the northwest quarter of the southwest quarter of section 8, township 42 north, range 2 west of the 5th principal meridian; thence Westwardly, to the southwest corner of the northeast quarter of the southeast quarter of section 7, township 42 north, range 2 west of the 5th principal meridian; thence Southwardly, to the southeast corner of the southwest quarter of the southeast quarter of section 7; thence westwardly along the south line of the southeast quarter, to a point which lies eastwardly, 631.0 feet from the southwest corner of the southeast quarter of section 7; thence north 7°00' west to a point of the centerline of the abandoned "Old Public Road;" thence north 41°30' east along the above mentioned centerline, to the south line of the northeast quarter of section 7; thence Eastwardly, to the northeast corner of the northwest quarter of the southwest quarter of the above mentioned section 8; thence southwardly to the point of beginning.

ALSO:

Beginning at the northwest corner of the southeast quarter of the southeast quarter of the above mentioned section, township 42 north, range 2 west of the 5th principal meridian; thence Southwardly, 528.0 feet along the west line of the southeast quarter of the southeast quarter of section 7; thence North 70°00' east, 305.0 feet to a point; thence North 88°30' east, 183.0 feet to a point; thence North 77°45' east, 195.0 feet to a point; thence North 53°30' east, 442.0 feet to a point, thence North 55°00' east to a point on the north line of the southeast quarter of the southeast quarter of section 7; thence Westwardly to the point of beginning, in all, containing 112.50 acres, more or less.

Tract No. 605

A tract of land situated in the County of Franklin, State of Missouri, being part of the north half of the northeast fractional quarter, and part of the southeast fractional quarter of the northeast fractional quarter of section 18, township 42 north, range 2 west of the 5th principal meridian, and being more particularly described as follows; all bearings being referred to grid north:

Beginning at the southwest corner of the northwest quarter of the northeast quarter of section 18, township 42 north, range 2 west of the 5th principal meridian; thence Northwardly to a point on the west line of the northwest quarter of the northeast quarter of section 18 which lies southwardly, 660.0 feet from the northwest corner of the northwest quarter of the northeast quarter; thence Northeastwardly to a point on the north line of section 18 which lies eastwardly 818.4 feet from the northwest corner of the northwest quarter of the northeast quarter of section 18; thence Eastwardly along the north line of section 18, to a point in the middle of the Bourbeuse River; thence Southeastwardly along the middle of the Bourbeuse River to a point on the east line of the northeast quarter of section 18; thence Southwardly, along the east line of the northeast quarter of section 18 to a point on the northwesterly boundary line of United States Survey No. 3129, thence Southwestwardly, along the above mentioned boundary line of Survey No. 3129 to a point on the west line of the southeast quarter of the northeast quarter of section 18; thence Northwardly, to

the southeast corner of the northwest quarter of the northeast quarter of section 18; thence Westwardly, to the point of beginning, containing 93.00 acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 10. GOVERNOR AUTHORIZED TO CONVEY PROPERTY AT SUNRISE STATE SCHOOL IN MARSHFIELD, WEBSTER COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located at the Sunrise State School in Marshfield, Webster County, more particularly described as follows:

The North two hundred, forty feet (240 ft.) of Lot 4, of Block 3 of Shook Addition to the City of Marshfield, Missouri, Webster County, Missouri, according to the plat filed at Plat Book 4 and Page 48 of the records of the Recorder of Deeds of Webster County, Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 11. GOVERNOR AUTHORIZED TO CONVEY PROPERTY AT NEVADA HABILITATION CENTER IN NEVADA, VERNON COUNTY.. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim any or all interest of the state of Missouri in real property located at the Nevada Habilitation Center, as specifically described herein. The authorization includes the lease-purchase of one portion and sale of the remainder of the property, in the Northwest 1/4 of Section 33, Township 36 North, Range 31 West of the 5th P.M. in Nevada, Missouri, Vernon County, more particularly described as follows:

Beginning at the Northwest corner of said Northwest 1/4; thence S88°18'28"E along the North line of said Northwest 1/4, a distance of 2629.18 feet to the Northeast Corner of said Northwest 1/4; thence S02°13'14"W along East line of said Northwest 1/4, a distance of 1219.36 feet; thence N88°36'07"W a distance of 823.82 feet; thence N02°14'03"E a distance of 580.95 feet; thence N88°18'28"W a distance of 519.23 feet to the Westerly Right of Way line of State Highway "W"; thence S02°12'02"W along said Right of Way line, a distance of 135.07 feet; thence N88°18'28"W a distance of 521.65 feet; thence S02°21'48"W a distance of 388.33 feet; thence N88°18'28"W a distance of 766.97 feet to the West line of said Northwest 1/4; thence N02°21'48"E along said West line, a distance of 1166.06 feet returning to the Point of Beginning. Having an Area of 60.58 acres.

Subject to road right of ways and easements, public and private, as may now be located.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

HB 2290 [SS HB 2290]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding child care assistance

AN ACT to repeal section 208.010, RSMo, and to enact in lieu thereof two new sections relating to public assistance benefits.

SECTION

- A. Enacting clause.
- 208.010. Eligibility for public assistance, how determined — means test — certain medical assistance benefits to include payment of deductible and coinsurance — prevention of spousal impoverishments, division of assets, community spouse defined — burial lots defined — diversion of institutionalized spouse's income.
- 208.046. Child care assistance, income eligibility criteria, vouchers or direct reimbursement, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 208.010, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 208.010 and 208.046, to read as follows:

208.010. ELIGIBILITY FOR PUBLIC ASSISTANCE, HOW DETERMINED — MEANS TEST — CERTAIN MEDICAL ASSISTANCE BENEFITS TO INCLUDE PAYMENT OF DEDUCTIBLE AND COINSURANCE — PREVENTION OF SPOUSAL IMPOVERISHMENTS, DIVISION OF ASSETS, COMMUNITY SPOUSE DEFINED — BURIAL LOTS DEFINED — DIVERSION OF INSTITUTIONALIZED SPOUSE'S INCOME. — 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the division of family services to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the division of family services; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining the need of a claimant in federally aided programs there shall be disregarded such amounts per month of earned income in making such determination as shall be required for federal participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When federal law or regulations require the exemption of other income or resources, the division of family services may provide by rule or regulation the amount of income or resources to be disregarded.

2. Benefits shall not be payable to any claimant who:

(1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given away or sold a resource within the time and in the manner specified in this subdivision. In determining the resources of an individual, unless prohibited by federal statutes or regulations, there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this

subsection, and subsection 5 of this section) any resource or interest therein owned by such individual or spouse within the twenty-four months preceding the initial investigation, or at any time during which benefits are being drawn, if such individual or spouse gave away or sold such resource or interest within such period of time at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits, including but not limited to benefits based on December, 1973, eligibility requirements, as follows:

(a) Any transaction described in this subdivision shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose;

(b) The resource shall be considered in determining eligibility from the date of the transfer for the number of months the uncompensated value of the disposed of resource is divisible by the average monthly grant paid or average Medicaid payment in the state at the time of the investigation to an individual or on his or her behalf under the program for which benefits are claimed, provided that:

a. When the uncompensated value is twelve thousand dollars or less, the resource shall not be used in determining eligibility for more than twenty-four months; or

b. When the uncompensated value exceeds twelve thousand dollars, the resource shall not be used in determining eligibility for more than sixty months;

(2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes convincing evidence that the uncompensated value of the disposed of resource or any part thereof is no longer possessed or owned by the person to whom the resource was transferred;

(3) Has received, or whose spouse with whom he or she is living has received, benefits to which he or she was not entitled through misrepresentation or nondisclosure of material facts or failure to report any change in status or correct information with respect to property or income as required by section 208.210. A claimant ineligible pursuant to this subsection shall be ineligible for such period of time from the date of discovery as the division of family services may deem proper; or in the case of overpayment of benefits, future benefits may be decreased, suspended or entirely withdrawn for such period of time as the division may deem proper;

(4) Owns or possesses resources in the sum of one thousand dollars or more; provided, however, that if such person is married and living with spouse, he or she, or they, individually or jointly, may own resources not to exceed two thousand dollars; and provided further, that in the case of a temporary assistance for needy families claimant, the provision of this subsection shall not apply;

(5) Prior to October 1, 1989, owns or possesses property of any kind or character, excluding amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMO] **under chapter 436**, or has an interest in property, of which he or she is the record or beneficial owner, the value of such property, as determined by the division of family services, less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually living together with husband or wife, if the value of his or her property, or the value of his or her interest in property, together with that of such husband and wife, exceeds such amount;

(6) In the case of temporary assistance for needy families, if the parent, stepparent, and child or children in the home owns or possesses property of any kind or character, or has an interest in property for which he or she is a record or beneficial owner, the value of such property, as determined by the division of family services and as allowed by federal law or regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMO] **under chapter 436**, one automobile which shall not exceed a value set forth by federal law or regulation and for a period not to exceed six months, such other real property which the

family is making a good-faith effort to sell, if the family agrees in writing with the division of family services to sell such property and from the net proceeds of the sale repay the amount of assistance received during such period. If the property has not been sold within six months, or if eligibility terminates for any other reason, the entire amount of assistance paid during such period shall be a debt due the state;

(7) Is an inmate of a public institution, except as a patient in a public medical institution.

3. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the income and resources of a relative or other person living in the home shall be taken into account to the extent the income, resources, support and maintenance are allowed by federal law or regulation to be considered.

4. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the value of burial lots or any amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo,] **under chapter 436** shall not be taken into account or considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as defined in section 214.270[, RSMo,] and any memorial, monument, marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436, [RSMo,] of an irrevocable prearranged funeral or burial contract receives any public assistance benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in interest cancel or amend the contract so that any person will be entitled to a refund, such refund shall be paid to the state of Missouri up to the amount of public assistance benefits provided pursuant to this chapter with any remainder to be paid to those persons designated in chapter 436[, RSMo].

5. In determining the total property owned pursuant to subdivision (5) of subsection 2 of this section, or resources, of any person claiming or for whom public assistance is claimed, there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or any two or more policies or contracts, or any combination of policies and contracts, which provides for the payment of one thousand five hundred dollars or less upon the death of any of the following:

(1) A claimant or person for whom benefits are claimed; or

(2) The spouse of a claimant or person for whom benefits are claimed with whom he or she is living. If the value of such policies exceeds one thousand five hundred dollars, then the total value of such policies may be considered in determining resources; except that, in the case of temporary assistance for needy families, there shall be disregarded any prearranged funeral or burial contract, or any two or more contracts, which provides for the payment of one thousand five hundred dollars or less per family member.

6. Beginning September 30, 1989, when determining the eligibility of institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall comply with the provisions of the federal statutes and regulations. As necessary, the division shall by rule or regulation implement the federal law and regulations which shall include but not be limited to the establishment of income and resource standards and limitations. The division shall require:

(1) That at the beginning of a period of continuous institutionalization that is expected to last for thirty days or more, the institutionalized spouse, or the community spouse, may request an assessment by the division of family services of total countable resources owned by either or both spouses;

(2) That the assessed resources of the institutionalized spouse and the community spouse may be allocated so that each receives an equal share;

(3) That upon an initial eligibility determination, if the community spouse's share does not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the community

spouse a resource allowance to increase the community spouse's share to twelve thousand dollars;

(4) That in the determination of initial eligibility of the institutionalized spouse, no resources attributed to the community spouse shall be used in determining the eligibility of the institutionalized spouse, except to the extent that the resources attributed to the community spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section 1396r-5;

(5) That beginning in January, 1990, the amount specified in subdivision (3) of this subsection shall be increased by the percentage increase in the Consumer Price Index for All Urban Consumers between September, 1988, and the September before the calendar year involved; and

(6) That beginning the month after initial eligibility for the institutionalized spouse is determined, the resources of the community spouse shall not be considered available to the institutionalized spouse during that continuous period of institutionalization.

7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods required and for the reasons specified in 42 U.S.C. Section 1396p.

8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to the provisions of section 208.080.

9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the home of the applicant or recipient when the home is providing shelter to the applicant or recipient, or his or her spouse or dependent child. The division of family services shall establish by rule or regulation in conformance with applicable federal statutes and regulations a definition of the home and when the home shall be considered a resource that shall be considered in determining eligibility.

10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts as determined due pursuant to the applicable provisions of federal regulations pertaining to Title XVIII Medicare Part B, except the applicable Title XIX cost sharing.

11. A "community spouse" is defined as being the noninstitutionalized spouse.

12. An institutionalized spouse applying for Medicaid and having a spouse living in the community shall be required, to the maximum extent permitted by law, to divert income to such community spouse to raise the community spouse's income to the level of the minimum monthly needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall occur before the community spouse is allowed to retain assets in excess of the community spouse protected amount described in 42 U.S.C. Section 1396r-5.

208.046. CHILD CARE ASSISTANCE, INCOME ELIGIBILITY CRITERIA, VOUCHERS OR DIRECT REIMBURSEMENT, WHEN. — 1. The children's division shall promulgate rules to become effective no later than July 1, 2011, to modify the income eligibility criteria for any person receiving state-funded child care assistance under this chapter, either through vouchers or direct reimbursement to child care providers, as follows:

(1) Child care recipients eligible under this chapter and the criteria set forth in 13 CSR 35-32.010, may pay a fee based on adjusted gross income and family size unit based on a child care sliding fee scale established by the children's division, which shall be subject to appropriations. However, a person receiving state-funded child care assistance under this chapter and whose income surpasses the annual appropriation level may continue to receive reduced subsidy benefits on a scale established by the children's division, at which time such person will have assumed the full cost of the maximum base child care subsidy rate established by the children's division and shall be no longer eligible for child care subsidy benefits;

(2) The sliding scale fee may be waived for children with special needs as established by the division; and

(3) The maximum payment by the division shall be the applicable rate minus the applicable fee.

2. For purposes of this section, "annual appropriation level" shall mean the maximum income level to be eligible for a full child care benefit as determined through the annual appropriations process.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

Approved July 9, 2010

HB 2297 [CCS SCS HCS HB 2297]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the establishment of the Kansas City Zoological District

AN ACT to amend chapter 184, RSMo, by adding thereto five new sections relating to the establishment of the Kansas City zoological district.

SECTION

- A. Enacting clause.
- 184.500. Definitions
- 184.503. Seal and bylaws--power to contract--borrowing of moneys, when--support for activities, considerations--annual report.
- 184.506. Commission to govern, members, terms, meetings, quorum--immunity for members.
- 184.509. Seal and bylaws--power to contract--borrowing of moneys, when--support for activities, considerations--annual report.
- 184.512. Administration, funding of — record-keeping requirements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 184, RSMo, is amended by adding thereto five new sections, to be known as sections 184.500, 184.503, 184.506, 184.509, and 184.512, to read as follows:

184.500. DEFINITIONS — As used in sections 184.500 to 184.512, unless the context clearly requires otherwise, the following terms mean:

- (1) "Commission", the governing body of the Kansas City Zoological District;
- (2) "Eligible charter county", any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;
- (3) "Eligible county or eligible counties", any eligible charter county or eligible noncharter county;

(4) "Eligible noncharter county", any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants, and any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants;

(5) "District", a political subdivision of this state, to be known as "The Kansas City Zoological District", which shall be created under the provisions of sections 184.500 to 184.512 and composed of eligible counties which act to create, or to become a part of, the district in accordance with the provisions of section 184.503;

(6) "Organizations", nonprofit and tax exempt social, civic, or community organizations and associations that are dedicated to the development, provision, operation, supervision, promotion, or support of zoological activities;

(7) "Zoological activities", the establishment and maintenance of zoological facilities and related buildings; acquisition and care of species for display and study in a zoological facility; educational and cultural programs relating to zoological matters; artistic, historical, intellectual, or social programs that relate to zoological matters; and such other collateral activities as may be necessary to maintain and carry out other activities provided under sections 184.500 to 184.512;

(8) "Zoological facilities", facilities operated or used for participation or engagement in zoological activities.

184.503. CREATION OF DISTRICT AND SALES TAX AUTHORIZED — BALLOT LANGUAGE — SALES TAX REVENUE, USE OF — WITHDRAWAL FROM DISTRICT, PROCEDURE. — 1. The governing body of any eligible county may, by resolution, authorize the creation of or participation in a district, and may impose a sales tax on all retail sales made within the eligible county which are subject to sales tax under chapter 144. The tax authorized in this section shall not exceed one-fourth of one percent, and shall be imposed solely for the purpose of funding the support of zoological activities within the district. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. Such creation of or participation in such district and the levy of the sales tax may be accomplished individually or on a cooperative basis with another eligible county or other eligible counties for financial support of the district. A petition requesting such creation of or participation in such district and the levy of the sales tax for the purpose of funding the support of zoological activities within the district may also be filed with the governing body, and shall be signed by not less than the number of qualified electors of an eligible county equal to five percent of the number of ballots cast and counted at the last preceding gubernatorial election held in such county. No such resolution adopted or petition presented under this section shall become effective unless the governing body of the eligible county submits to the voters residing within the eligible county at a state general, primary, or special election a proposal to authorize the governing body of the eligible county to create or participate in a district and to impose a tax under this section. The county election official shall give legal notice at least sixty days prior to such general or primary election or special election in at least two newspapers that such proposition or propositions shall be submitted at the next general or primary election or special election held for submission of this proposition. The resolution or proposition shall be printed on the ballot and in the notice of election. Provisions of this section to the contrary notwithstanding, no tax authorized under the provisions of this section shall be effective in any eligible noncharter county unless the tax authorized under the provisions of this section is also collected by an eligible charter county.

2. The ballot for the proposition in any county shall be in substantially the following form:

"Shall a retail sales tax of (insert amount, not to exceed one-quarter of one percent) be levied and collected for the benefit of the Kansas City Zoological District, which shall be created and consist of the county(s) of (insert name of counties), for the support of zoological activities with the district?

☐ YES

☐ NO"

The governing body of the county may place additional language on the ballot to describe the use or allocation of the funds.

3. In the event that a majority of the voters voting on such proposition in such county at said election cast votes for the proposition, then the district shall be deemed established and the tax rate for such subdistrict shall be deemed in full force and effect as of the first day of the year following the year of said election and the governing body of such county may proceed with the performance of all things necessary and incidental to participation in the district. The results of the aforesaid election shall be certified by the election officials of such county to the governing body of such county not less than thirty days after the day of election. In the event the proposition shall fail to receive a majority of the votes "FOR", then such proposition shall not be resubmitted at any election held within one year of the date of the election the proposition was rejected. Any such resubmissions of such proposition shall substantially comply with the provisions of sections 184.500 to 184.515.

4. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed under this section.

5. All sales taxes collected by the director of revenue from the tax authorized by this section on behalf of the district, less one percent for cost of collection, which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds, as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "Kansas City Zoological District Sales Tax Trust Fund". The moneys in the Kansas City Zoological District Sales Tax Trust Fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money collected and deposited in the trust fund and the records shall be open to the inspection of officers of the district, the counties composing the district, and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the Kansas City Zoological District Sales Tax Trust Fund during the preceding month to the district.

6. The director of revenue may make refunds from the amounts in the Kansas City Zoological District Sales Tax Trust Fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of the district. If the district abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the Kansas City Zoological District Sales Tax Trust Fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such account. After one year has elapsed after the effective date of abolition of the tax in the district, the director of revenue shall remit the balance in the account to the district and close the account of the district. The director of revenue shall notify the district of each instance of any amount refunded or any check redeemed from receipts due the district.

7. Any of the eligible counties composing the Kansas City Zoological District may withdraw from the district by adoption of a resolution and approval of the resolution by a majority of the qualified electors of the county, in the same manner provided in this

section for creating or becoming a part of the district. The governing body of a withdrawing county shall provide for the sending of formal written notice of withdrawal from the district to the governing body of the other county or each of the other counties comprising the district. Actual withdrawal shall not take effect until ninety days after notice has been sent. A withdrawing county shall not be relieved from any obligation that such county may have assumed or incurred by reason of being a part of the district, including, but not limited to, the retirement of any outstanding bonded indebtedness of the district.

184.506. COMMISSION TO GOVERN, MEMBERS, TERMS, MEETINGS, QUORUM — IMMUNITY FOR MEMBERS. — 1. The district shall be governed by the commission, which shall be a body corporate and politic and subdivision of the state and shall be composed of resident electors, as follows:

(1) One member of the governing body of each eligible county that is a part of the district, who shall be appointed by a majority vote of such county's governing body;

(2) One member of the Kansas City, Missouri Board of Parks and Recreation, who shall be appointed by a majority vote of such board;

(3) One member shall be the executive director of the Kansas City Zoo;

(4) One member shall be appointed by the governing body of each eligible county which establishes the district under section 184.503 in the following manner:

(a) The Friends of the Zoo, Inc., shall provide the names of three individuals to the governing body of each eligible county. Each individual named shall be at least twenty-one years of age, a resident of such eligible county, and a registered voter of such eligible county;

(b) Within sixty days of receiving the three names provided under paragraph (a) of this subdivision, the governing body of each eligible charter county shall select by a majority vote one individual from the three names provided under paragraph (a) of this subdivision who shall then serve as a member of the district's commission for a term described under subsection 2 of this section. Within sixty days of receiving the three names provided under paragraph (a) of this subdivision, the governing body of each eligible noncharter county shall select by unanimous vote one individual from the three names provided under paragraph (a) of this subdivision who shall then serve as a member of the district's commission for a term described under subsection 2 of this section.

2. The term of each commissioner, initially appointed by a county governing body, shall expire concurrently with such commissioner's tenure as a county officer or three years after the date of appointment as a commissioner, whichever occurs first. The term of each succeeding commissioner shall expire concurrently with such successor commissioner's tenure as a county officer or four years after the date of appointment as a commissioner, whichever occurs first. The term of the commissioner initially appointed by the Kansas City, Missouri Board of Parks and Recreation shall expire concurrently with such commissioner's tenure as a member of the Kansas City, Missouri Board of Parks and Recreation, or one year after the date of appointment as a commissioner, whichever occurs first. The term of each commissioner succeeding a commissioner appointed by the Kansas City, Missouri Board of Parks and Recreation shall expire concurrently with such successor commissioner's tenure as a member of the Kansas City, Missouri Board of Parks and Recreation or four years after the date of appointment as a commissioner, whichever occurs first. The term of each commissioner initially appointed by the governing body of an eligible county shall expire four years after the date of appointment as a commissioner. The term of each commissioner succeeding a commissioner appointed by the governing body of an eligible county shall expire four years after the date of appointment as commissioner. If an eligible county withdraws under subsection 7 of section 184.503, then the position of commissioner appointed by such

eligible county ends on the date on which the withdrawal becomes effective. The term of the executive director of the Kansas City Zoo shall not expire but shall transfer automatically to the current executive director of the Kansas City Zoo or any interim director. Any vacancy occurring in a commissioner position for reasons other than expiration of terms of office shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Any commissioner may be removed for cause by the appointing authority of the commissioner.

3. The commission shall select annually, from its membership, a chairperson, a vice chairperson, and a treasurer. The treasurer shall be bonded in such amounts as the commission may require.

4. The commission may appoint such officers, agents, and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents, and employees.

5. The commission shall fix the time and place at which its meetings shall be held. Meetings shall be held within the district and shall be open to the public. Public notice shall be given of all meetings.

6. A majority of the commissioners shall constitute, in the aggregate, a quorum for the transaction of business. No action of the commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the commissioners present at such meeting, shall vote in favor thereof. In the event a quorum is present and there is a tie vote on a pending motion, the executive director of the Kansas City Zoo shall have the power to break the tie by exercising an additional vote. No action of the commission taken at a meeting thereof shall be binding unless the subject of such action is included in a written agenda for such meeting, the agenda and notice of meeting having been mailed to each commissioner by postage-paid first class mail at least fourteen calendar days prior to the meeting.

7. The commissioners shall be subject to the provisions of the laws of this state, which relate to conflicts of interest, in any zoological activity supported by the district or commission or in any other business transaction of the district or commission. A commissioner shall disclose any conflict of interest in writing to the other commissioners and shall abstain from voting on any matter relating to such facility, organization, or activity or such business transaction, except that the executive director of Kansas City Zoo shall not be required to abstain from voting on matters relating to the Kansas City Zoo.

8. Commissioners shall enjoy official immunity under the common law for any action at law or equity, or other legal proceeding against any commissioner relating to any act or omission of the commissioner arising out of his or her performance of duties as a commissioner. If any action at law or equity, or other legal proceeding, shall be brought against any commissioner for any act or omission arising out of the performance of duties as a commissioner, the commissioner shall be indemnified in whole and held harmless by the commission for any judgment or decree entered against the commissioner and, further, shall be defended at the cost of expense of the commission in any such proceeding.

184.509. SEAL AND BYLAWS — POWER TO CONTRACT — BORROWING OF MONEYS, WHEN — SUPPORT FOR ACTIVITIES, CONSIDERATIONS — ANNUAL REPORT. — 1. The commission shall adopt a seal and suitable bylaws governing its management and procedure. The commission shall have the power to contract and to be contracted with, and to sue and to be sued. The commission may own and acquire, by gift, purchase, lease, or devise, zoological facilities within the territory of the district. The commission may plan, construct, operate, and maintain and contract for the operation and maintenance of zoological facilities within the territory of the district. The commission may sell, lease, donate, transfer, or otherwise dispose of zoological facilities within the territory of the

district. The commission may receive for any of its purposes and functions any contributions or moneys appropriated by counties or cities and may solicit and receive any and all donations, and grants of money, equipment, supplies, materials, and services from any state or the United States or any agency thereof, or from any institution, foundation, organization, person, firm, or corporation, and may utilize and dispose of the same.

2. At any time following five years from the date of creation of the Kansas City Zoological District, the commission may borrow moneys for the planning, construction, equipping, operation, maintenance, repair, extension, expansion, or improvement of any zoological facility by:

(1) Issuing notes, bonds or other instruments in writing of the commission in evidence of the sum or sums to be borrowed. No notes, bonds or other instruments in writing shall be issued pursuant to this subsection until the issuance of such notes, bonds or instruments has been submitted to and approved by a majority of the qualified electors of the district voting at an election called and held thereon. Such election shall be called and held in the manner provided by law;

(2) Issuing refunding notes, bonds or other instruments in writing for the purpose of refunding, extending or unifying the whole or any part of its outstanding indebtedness from time to time, whether evidenced by notes, bonds or other instruments in writing. Such refunding notes, bonds or other instruments in writing shall not exceed in amount the principal of the outstanding indebtedness to be refunded and the accrued interest thereon to the date of such refunding;

(3) Providing that all notes, bonds and other instruments in writing issued hereunder shall or may be payable, both as to principal and interest, from sales tax revenues authorized under this compact and disbursed to the district by counties comprising the district, admissions and other revenues collected from the use of any zoological facility or facilities constructed hereunder, or from any other resources of the commission, and further may be secured by a mortgage or deed of trust upon any property interest of the commission; and

(4) Prescribing the details of all notes, bonds or other instruments in writing, and of the issuance and sale thereof. The commission shall have the power to enter into covenants with the holders of such notes, bonds or other instruments in writing, not inconsistent with the powers granted herein, without further legislative authority.

3. The commission may provide donations, contributions, and grants or other support, financial or otherwise for, or in aid of, zoological activities in counties that are part of the district. In determining whether to provide any such support the commission shall consider the following factors:

(1) The commission's primary purpose is to support the maintenance and operation of the Kansas City Zoo through donations, contributions, grants, and other financial support;

(2) The economic impact upon the district;

(3) The benefit to citizens of the district and to the general public;

(4) The contribution to the quality of life and popular image of the district;

(5) The breadth of popular appeal within and outside the district; and

(6) Any other factor deemed appropriate by the commission.

4. The commission may provide for actual and necessary expenses of commissioners incurred in the performance of their official duties.

5. The commission shall cause to be prepared annually a report on the operations and transactions conducted by the commission during the preceding year. The report shall be submitted to the governing bodies of the counties comprising the district, to the governing body of each county that appoints a commissioner, to the Kansas City, Missouri Board of Parks and Recreation, and to the executive board of Friends of the Zoo, Inc.

The commission shall publish the annual report in the official county newspaper of each of the counties comprising the district.

6. The commission has the power to perform all other necessary and incidental functions and duties and to exercise all other necessary and appropriate powers not inconsistent with the constitution or laws of this state to effectuate the same.

7. Nothing in this section shall be construed as granting the commission authority or power to manage the Kansas City Zoo or to retain title to, or control over, the lands occupied by the Kansas City Zoo.

184.512. ADMINISTRATION, FUNDING OF — RECORD-KEEPING REQUIREMENTS. — 1. The moneys necessary to finance administrative operations of the Kansas City zoological district for the first six months after its creation shall be appropriated to the commission by the counties comprising the district. Thereafter, the moneys necessary to finance the operation of the Kansas City zoological district shall be taken from the Kansas City zoological district sales tax fund, established under the provisions of section 184.503.

2. The commission shall not incur any indebtedness or obligation of any kind, nor shall the commission pledge the credit of either or any of the counties comprising the district, except as authorized in section 184.509. The budget of the district shall be prepared, adopted, and published as provided by law for other political subdivisions of this state.

3. This commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the commission.

4. The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the counties comprising the district, the cities that appoint a commissioner, the executive committee of Friends of the Zoo, Inc., and other persons authorized by the commission.

Approved July 12, 2010

SB 578 [SS SB 578]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows port authority boards to establish port improvement districts to fund projects with voter-approved sales taxes or property taxes

AN ACT to repeal sections 68.025, 68.035, 68.040, and 68.070, RSMo, and to enact in lieu thereof nineteen new sections relating to port authorities.

SECTION

- A. Enacting clause.
- 68.025. Powers of port authority.
- 68.035. State authorized to make grants to port authorities.
- 68.040. Bonds of port authority, issued, when — authorized as investments — tax exemption — procedure for issuance of bonds and notes.
- 68.057. Competitive bids required, when.
- 68.070. Dissolution, procedure for.
- 68.200. Citation of law.
- 68.205. Definitions.
- 68.210. Establishment of districts authorized, procedure — prohibited in Clay County.
- 68.215. Public hearing required — notice.
- 68.220. Opposition, court to serve copy of petition, procedure.
- 68.225. Notice, form.
- 68.230. Termination of district, procedure.
- 68.235. Levy of property tax authorized — vote required — ballot language — repeal of tax.
- 68.240. County collector's and treasurer's duties — use of moneys upon expiration of tax.
- 68.245. Levy of sales and use tax authorized — ballot language — collection of tax, deposit of moneys — repeal of tax.
- 68.250. Conducting of election, procedure.
- 68.255. Statute of limitations.
- 68.259. Nonseverability clause.
- 68.260. Applicability of law — report required.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 68.025, 68.035, 68.040, and 68.070, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 68.025, 68.035, 68.040, 68.057, 68.070, 68.200, 68.205, 68.210, 68.215, 68.220, 68.225, 68.230, 68.235, 68.240, 68.245, 68.250, 68.255, 68.259, and 68.260, to read as follows:

68.025. POWERS OF PORT AUTHORITY. — 1. Every local and regional port authority, approved as a political subdivision of the state, shall have the following powers to:

- (1) Confer with any similar body created under laws of this or any other state for the purpose of adopting a comprehensive plan for the future development and improvement of its port districts;
- (2) Consider and adopt detailed and comprehensive plans for future development and improvement of its port districts and to coordinate such plans with regional and state programs;
- (3) **Establish a port improvement district in accordance with this chapter;**
- (4) **Carry out any of the projects enumerated in subdivision (16) of section 68.205;**
- (5) **Within the boundaries of any established port improvement district, to levy either a sales and use tax or a real property tax, or both, for the purposes of paying any part of the cost of a project benefiting property in a port improvement district; except that no port improvement district real property tax may be levied on any property, real, or personal, which is assessed pursuant to sections 151.010 to 151.340, unless such real property tax levy is agreed to in writing by the property's owner;**

(6) Pledge both revenues generated by any port improvement district and any other port authority revenue source to the repayment of any outstanding obligations;

(7) Either jointly with a similar body, or separately, recommend to the proper departments of the government of the United States, or any state or subdivision thereof, or to any other body, the carrying out of any public improvement for the benefit of its port districts;

[(4)] (8) Provide for membership in any official, industrial, commercial, or trade association, or any other organization concerned with such purposes, for receptions of officials or others as may contribute to the advancement of its port districts and any industrial development therein, and for such other public relations activities as will promote the same, and such activities shall be considered a public purpose;

[(5)] (9) Represent its port districts before all federal, state and local agencies;

[(6)] (10) Cooperate with other public agencies and with industry, business, and labor in port district improvement matters;

[(7)] (11) Enter into any agreement with any other states, agencies, authorities, commissions, municipalities, persons, corporations, or the United States, to effect any of the provisions contained in this chapter;

[(8)] (12) Approve the construction of all wharves, piers, bulkheads, jetties, or other structures;

[(9)] (13) Prevent or remove, or cause to be removed, obstructions in harbor areas, including the removal of wrecks, wharves, piers, bulkheads, derelicts, jetties or other structures endangering the health and general welfare of the port districts; in case of the sinking of a facility from any cause, such facility or vessel shall be removed from the harbor at the expense of its owner or agent so that it shall not obstruct the harbor;

[(10)] (14) Recommend the relocation, change, or removal of dock lines and shore or harbor lines;

[(11)] (15) Acquire, own, construct, redevelop, lease, maintain, and conduct land reclamation and resource recovery [with respect to unimproved land], **including the removal of sand, rock, or gravel**, residential developments, commercial developments, mixed-use developments, recreational facilities, industrial parks, industrial facilities, and terminals, terminal facilities, warehouses and any other type port facility;

[(12)] (16) Acquire, own, lease, sell or otherwise dispose of interest in and to real property and improvements situate thereon and in personal property necessary to fulfill the purposes of the port authority;

[(13)] (17) Acquire rights-of-way and property of any kind or nature within its port districts necessary for its purposes. Every port authority shall have the right and power to acquire the same by purchase, negotiation, or by condemnation, and should it elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the port authority, and it may proceed in the manner provided by the laws of this state for any county or municipality. The power of eminent domain shall not apply to property actively being used in relation to or in conjunction with river trade or commerce, unless such use is by a port authority pursuant to a lease in which event the power of eminent domain shall apply;

[(14)] (18) Contract and be contracted with, and to sue and be sued;

[(15)] (19) Accept gifts, grants, loans or contributions from the United States of America, the state of Missouri, political subdivisions, municipalities, foundations, other public or private agencies, individual, partnership or corporations;

[(16)] (20) Employ such managerial, engineering, legal, technical, clerical, accounting, advertising, stenographic, and other assistance as it may deem advisable. The port authority may also contract with independent contractors for any of the foregoing assistance;

[(17)] (21) Improve navigable and nonnavigable areas as regulated by federal statute;

[(18)] (22) Disburse funds for its lawful activities and fix salaries and wages of its employees; and

[(19)] **(23)** Adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted; however, said bylaws, rules and regulations shall not exceed the powers granted to the port authority by this chapter.

2. In implementing its powers, the port authority shall have the power to enter into agreements with private operators or public entities for the joint development, redevelopment, and reclamation of property within a port district or for other uses to fulfill the purposes of the port authority.

68.035. STATE AUTHORIZED TO MAKE GRANTS TO PORT AUTHORITIES. — 1. The state may make grants to a state port fund, as appropriated by the general assembly, to be allocated by the department of transportation to local port authorities or regional port coordinating agencies. These grants, administered on a nonmatching basis, could be used for managerial, engineering, legal, research, promotion, planning and any other expenses.

2. In addition the state may make capital improvement matching grants contributing eighty percent of the funds and local port authorities contributing twenty percent of the funds for specific [projects] **undertakings** of port development such as land acquisitions, construction, terminal facility development, **port improvement projects**, and other related port facilities. **Notwithstanding the foregoing, any matching grants awarded by the Missouri highways and transportation commission under the Port Capital Improvement Program shall be transportation related.**

3. The grants provided herein may be used as the local share in applying for other grant programs.

68.040. BONDS OF PORT AUTHORITY, ISSUED, WHEN — AUTHORIZED AS INVESTMENTS — TAX EXEMPTION — PROCEDURE FOR ISSUANCE OF BONDS AND NOTES. — 1. Every local and regional port authority, approved as a political subdivision of the state, may from time to time issue its negotiable revenue bonds or notes in such principal amounts as, in its opinion, shall be necessary to provide sufficient funds for achieving its purposes, including the construction of port facilities **and the financing of port improvement projects**; establish reserves to secure such bonds and notes; and make other expenditures, incident and necessary to carry out its purposes and powers.

2. This state shall not be liable on any notes or bonds of any port authority. Any such notes or bonds shall not be a debt of the state and shall contain on the faces thereof a statement to such effect.

3. No commissioner of any port authority or any authorized person executing port authority notes or bonds shall be liable personally on said notes or bonds or shall be subject to any personal liability or accountability by reason of the issuance thereof.

4. The notes and bonds of every port authority are securities in which all public officers and bodies of this state and all political subdivisions and municipalities, all insurance companies and associations, and other persons carrying on an insurance business, all banks, trust companies, saving associations, savings and loan associations, credit unions, investment companies, all administrators, guardians, executors, trustees, and other fiduciaries, and all other persons whatsoever, who now or may hereafter, be authorized to invest in notes and bonds or other obligations of this state, may properly and legally invest funds, including capital, in their control or belonging to them.

5. No port authority shall be required to pay any taxes or any assessments whatsoever to this state or to any political subdivisions, municipality or other governmental agency of this state. The notes and bonds of every port authority and the income therefrom shall, at all times, be exempt from any taxes and any assessments, except for death and gift taxes and taxes on transfers.

6. Every port authority shall have the powers and be governed by the procedures now or hereafter conferred upon or applicable to the environmental improvement authority, chapter 260,

RSMo, relating to the manner of issuance of revenue bonds and notes, and the port authority shall exercise all such powers and adhere to all such procedures insofar as they are consistent with the necessary and proper undertaking of its purposes.

68.057. COMPETITIVE BIDS REQUIRED, WHEN. — Any expenditure made by a port authority, as defined in section 68.205, that is over twenty-five thousand dollars, including professional service contracts, shall be competitively bid.

68.070. DISSOLUTION, PROCEDURE FOR. — [If, at any time] **Provided a local or regional port authority has no outstanding obligations**, the legislative body or county commission of a city or county, in which a local port authority is situated, votes, by majority, to dissolve said port authority, the local port authority shall be dissolved effective the date of approval of the dissolution by the highways and transportation commission of the state. If, at any time, all of the legislative bodies or county commissions of members of a regional port authority vote, by majority, to dissolve the regional port authority, it shall be dissolved effective the date of the approval of dissolution by the highways and transportation commission of the state. In the event of dissolution of a local or regional port authority, all funds and other assets shall be distributed among the cities and counties, who were members, on a pro rata basis.

68.200. CITATION OF LAW. — Sections 68.200 to 68.260 shall be known and may be cited as the "Port Improvement District Act".

68.205. DEFINITIONS. — As used in sections 68.200 to 68.260, unless the context clearly requires otherwise, the following terms shall mean:

- (1) "Act", the port improvement district act, sections 68.200 to 68.260;
 - (2) "Approval", for purposes of elections pursuant to this act, a simple majority of those qualified voters casting votes in any election;
 - (3) "Board", the board of port authority commissioners for the particular port authority that desires to establish or has established a district;
 - (4) "Director of revenue", the director of the department of revenue of the state of Missouri;
 - (5) "District" or "port improvement district", an area designated by the port authority which is located within its port district boundaries at the time of establishment;
 - (6) "Disposal of solid waste or sewage", the entire process of storage, collection, transportation, processing, and disposal of solid wastes or sewage;
 - (7) "Election authority", the election authority having jurisdiction over the area in which the boundaries of the district are located under chapter 115;
 - (8) "Energy conservation", the reduction of energy consumption;
 - (9) "Energy efficiency", the increased productivity or effectiveness of the use of energy resources, the reduction of energy consumption, or the use of renewable energy sources;
 - (10) "Obligations", revenue bonds and notes issued by a port authority and any obligations for the repayment of any money obtained by a port authority from any public or private source along with any associated financing costs, including, but not limited to, the costs of issuance, capitalized interest, and debt service;
 - (11) "Owner", the individual or individuals or entity or entities who own a fee interest in real property that is located within the boundaries of a district based upon the recorded real estate records of the county recorder, or the city recorder of deeds if the district is located in a city not within a county, as of the thirtieth day prior to any action;
 - (12) "Petition", a petition to establish a port improvement district within the port district boundaries or a petition to make a substantial change to an existing district;
-

(13) "Pollution", the existence of any noxious substance in the air or waters or on the lands of the state in sufficient quantity and of such amounts, characteristics, and duration as to injure or harm the public health or welfare or animal life or property;

(14) "Port authority", a political subdivision established pursuant to this chapter;

(15) "Port district boundaries", the boundaries of any port authority on file with the clerk of the county commission, city clerk, or clerk of the legislative or governing body of the county as applicable, which became effective upon approval by the highways and transportation commission of the state of Missouri;

(16) "Project" or "port improvement project", with respect to any property within a port improvement district, or benefiting property within a port improvement district:

(a) Providing for, or contracting for the provision of, environmental cleanup, including the disposal of solid waste, services to brownfields, or other polluted real property;

(b) Providing for, or contracting for the provision of, energy conservation or increased energy efficiency within any building, structure, or facility;

(c) Providing for, or contracting for the provision of, wetland creation, preservation, or relocation;

(d) The construction of any building, structure, or facility determined by the port authority as essential in developing energy resources, preventing, reducing, or eliminating pollution, or providing water facilities or the disposal of solid waste;

(e) Modifications to, or the relocation of, any existing building, structure, or facility that has been acquired or constructed, or which is to be acquired or constructed for the purpose of developing energy resources, preventing, reducing, or eliminating pollution, or providing water facilities or the disposal of solid waste;

(f) The acquisition of real property determined by the port authority to be significant in, or in the furtherance of, the history, architecture, archeology, or culture of the United States, the state of Missouri, or its political subdivisions;

(g) The operation, maintenance, repair, rehabilitation, or reconstruction of any existing public or private building, structure, or facility determined by the port authority to be significant in, or in the furtherance of, the history, architecture, archeology, or culture of the United States, the state of Missouri, or its political subdivisions;

(h) The construction of any new building, structure, or facility that is determined by the port authority to be significant in, or in the furtherance of, the history, architecture, archeology, or culture of the United States, the state of Missouri, or its political subdivisions;

(17) "Qualified project costs", include any and all reasonable costs incurred or estimated to be incurred by a port authority, or a person or entity authorized by a port authority, in furtherance of a port improvement project, which costs may include, but are not limited to:

(a) Costs of studies, plans, surveys, and specifications;

(b) Professional service costs, including, but not limited to, architectural, engineering, legal, research, marketing, financial, planning, consulting, and special services, including professional service costs necessary or incident to determining the feasibility or practicability of any project and carrying out the same;

(c) Administrative fees and costs of a port authority in carrying out any of the purposes of this act;

(d) Property assembly costs, including, but not limited to, acquisition of land and other property and improvements, real or personal, or rights or interests therein, demolition of buildings and structures, and the clearing or grading of land, machinery, and equipment relating to any project, including the cost of demolishing or removing any existing structures;

- (e) Costs of operating, rehabilitating, reconstructing, maintaining, and repairing existing buildings, structures, or fixtures;
 - (f) Costs of constructing new buildings, structures, or fixtures;
 - (g) Costs of constructing, operating, rehabilitating, reconstructing, maintaining, and repairing public works or improvements;
 - (h) Financing costs, including, but not limited to, all necessary and incidental expenses related to the port authority's issuance of obligations, which may include capitalized interest on any such obligations and reasonable reserves related to any such obligations;
 - (i) All or a portion of the port authority's capital costs resulting from a port improvement project necessarily incurred or to be incurred in furtherance of a port improvement project, to the extent the port authority accepts and approves such costs; and
 - (j) Relocation costs, to the extent that a port authority determines that relocation costs shall be paid, or are required to be paid, by federal or state law;
- (18) "Qualified voters", for the purposes of an election for the approval of a real property tax or a sales and use tax:
- (a) Registered voters residing within the district; or
 - (b) If no registered voters reside within the district, the owners of one or more parcels of real property within the district, which would be subject to such real property taxes or sales and use taxes, as applicable, based upon the recorded real estate records of the county recorder, or the city recorder of deeds if the district is located in a city not within a county, as of the thirtieth day prior to the date of the applicable election;
- (19) "Registered voters", persons who reside within the district and who are qualified and registered to vote pursuant to chapter 115 as determined by the election authority as of the thirtieth day prior to the date of the applicable election;
- (20) "Respondent", the Missouri highways and transportation commission, each property owner within the proposed district, the municipality or municipalities within which the proposed district is located, the county or counties within which the proposed district is located, and any other political subdivision within the boundaries of the proposed port improvement district, except the petitioning port authority;
- (21) "Revenues", all rents, revenues from any levied real property tax and sales and use tax, charges and other income received by a port authority in connection with any project, including any gift, grant, loan, or appropriation received by the port authority with respect thereto;
- (22) "Substantial changes", with respect to an established port improvement district, the addition or removal of real property to or from the port improvement district and any changes to the approved district funding mechanism; and
- (23) "Water facilities", any facilities for the furnishing and treatment of water for industrial, commercial, agricultural, or community purposes including, but not limited to, wells, reservoirs, dams, pumping stations, water lines, sewer lines, treatment plants, stabilization ponds, storm sewers, storm water detention and retention facilities, and related equipment and machinery.

68.210. ESTABLISHMENT OF DISTRICTS AUTHORIZED, PROCEDURE — PROHIBITED IN CLAY COUNTY. — 1. A port authority may establish one or more port improvement districts within its port district boundaries for the purpose of funding qualified project costs associated with an approved port improvement project. In order to form a district or to make substantial changes to an existing district, the board shall:

- (1) Draft a petition in accordance with subsection 2 of this section;
- (2) Hold a public hearing in accordance with section 68.215;
- (3) Subsequent to the public hearing, approve by resolution the draft petition containing any approved changes and amendments deemed necessary or desirable by a majority of the board members;

(4) File the approved draft petition in the circuit court of the county where the port improvement district is located, requesting the creation of a port improvement district in accordance with sections 68.200 to 68.260; and

(5) Within thirty days of the circuit court's certification of the petition, and establishment of the district, file a copy of the board's resolution approving the petition, the certified petition, and the circuit court judgment certifying the petition and establishing the district with the Missouri highways and transportation commission.

2. A petition is proper for consideration and approval by the board and the circuit court if, at the time of such approval, it has been signed by property owners collectively owning more than sixty percent per capita of all owners of real property within the boundaries of the proposed district and contains the following information:

(1) The legal description of the proposed district, including a map illustrating the legal boundaries. The proposed district shall be contiguous and may contain all or any portion of one or more municipalities and counties. Property separated only by public streets, easements or rights-of-way, or connected by a single public street, easement, or right-of-way shall be considered contiguous;

(2) A district name designation which shall be set out in the following format:

(a) The name of the Missouri county or municipality in which the port district boundaries are filed;

(b) The words "port improvement district"; and

(c) The district designation number, beginning at 1 for the first district formed by that specific port authority, and progressing consecutively upward, irrespective of the year established;

(3) A description of the proposed project or projects for which the district is being formed, and the estimated qualified project costs of such projects;

(4) The maximum rate or rates and duration of any proposed real property tax or sales and use tax, or both, as applicable, needed to fund the project;

(5) The estimated revenues projected to be generated by any such tax or taxes;

(6) The name and address of each respondent;

(7) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(8) A request that the circuit court certify the projects pursuant to the act, approve the proposed real property tax or sales and use tax, or both, as applicable, and establish the district.

3. Notwithstanding the provisions of sections 68.200 to 68.260 to the contrary, a port authority located within any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants shall not have the authority to establish any port improvement district within its port district boundaries.

68.215. PUBLIC HEARING REQUIRED — NOTICE. — 1. Not more than ten days prior to the submission of the petition to the circuit court, the port authority shall hold or cause to be held a public hearing on the proposed project or projects, proposed real property tax or sales and use tax, or both, as applicable, and the establishment of the proposed district and shall give notice of the public hearing in the manner provided in subsection 3 of this section. All reasonable protests, objections, and endorsements shall be heard at the public hearing.

2. The public hearing may be continued to another date without further notice other than a motion to be entered on the official port authority meeting minutes fixing the date, time, and place of the continuance of the public hearing.

3. Notice shall be provided by both publication and mailing. Notice by publication shall be given by publication in a newspaper of general circulation within the municipality

or county in which the port authority is located at least once not more than fifteen, but not less than ten, days prior to the date of the public hearing. Notice by mail shall be given not more than thirty, but not less than twenty, days prior to the date of the public hearing by sending the notice via registered or certified United States mail with a return receipt attached to the address of record of each owner within the boundaries of the proposed district. The published and mailed notices shall include the following:

- (1) The date, time, and place of the public hearing;
- (2) A statement that a petition for the establishment of a district has been drafted for public hearing by the board;
- (3) The boundaries of the proposed district by street location, or other readily identifiable means if no street location exists, and a map illustrating the proposed boundaries;
- (4) A brief description of the projects proposed to be undertaken, the estimated cost thereof, and the proposed method of financing such costs by a real property tax or sales and use tax, or both, as applicable;
- (5) A statement that a copy of the petition is available for review at the office of the port authority during regular business hours;
- (6) The address of the port authority's office; and
- (7) A statement that all interested persons shall be given an opportunity to be heard at the public hearing.

68.220. OPPOSITION, COURT TO SERVE COPY OF PETITION, PROCEDURE. — 1. Within thirty days after the petition is filed, the circuit court clerk shall serve a copy of the petition on the respondents who shall have thirty days after receipt of service to file an answer stating agreement with or opposition to the creation of the district. If any respondent files its answer opposing the creation of the district, it shall recite legal reasons why the petition is defective, why the proposed district is illegal or unconstitutional, or why the proposed method for funding the district is illegal or unconstitutional. The respondent shall ask the court for a declaratory judgment respecting these issues. The answer of each respondent shall be served on each petitioner and every other respondent named in the petition. Any resident or taxpayer within the proposed district not qualifying as a respondent may join in or file a petition supporting or answer opposing the creation of the district and seeking a declaratory judgment respecting these same issues within thirty days after the date notice is last published by the circuit clerk pursuant to section 68.225.

2. The court shall hear the case without a jury. If the court shall thereafter determine the petition is defective or the proposed district is illegal or unconstitutional, or shall be an undue burden on any owner of property within the district or is unjust and unreasonable, it shall enter its declaratory judgment to that effect and shall refuse to make the certifications requested in the pleadings. If the court determines that any proposed funding method is illegal or unconstitutional, it shall enter its judgment striking that funding method in whole or in part. If the court determines the petition is not legally defective and the proposed district and method of funding are neither illegal nor unconstitutional, the court shall enter its judgment to that effect. The court shall then certify the single question regarding the proposed real property tax or sales and use tax, or both, as applicable, needed to fund the project for voter approval. If no objections to the petition are timely filed, the court may make such certifications based upon the pleadings before it without any hearing.

3. Any party having filed an answer or petition may appeal the circuit court's order or declaratory judgment in the same manner provided for other appeals.

68.225. NOTICE, FORM. — The circuit court clerk in whose office the petition was filed shall give notice to the public by causing one or more newspapers of general circulation

serving the counties or portions thereof contained in the proposed district to publish once a week for four consecutive weeks a notice substantially in the following form:

NOTICE OF PETITION TO CREATE A PORT IMPROVEMENT DISTRICT

Notice is hereby given to all persons residing or owning property in
(here specifically describe the proposed district boundaries), within the state of Missouri,
that a petition has been filed asking that a port improvement district by the name of
"..... Port District No." be formed for the purpose of developing the following
projects: (here summarize the proposed project or projects). A copy of this petition is on
file and available at the office of the clerk of the circuit court of County, located
at, Missouri. You are notified to join in or file your own petition supporting
or answer opposing the creation of the port improvement district and requesting a
declaratory judgment, as required by law, no later than the day of,
20..... You may show cause, if any, why such petition is defective or proposed port
improvement district or its funding method, as set forth in the petition, is illegal or
unconstitutional and should not be approved as directed by this court.

.....
Clerk of the Circuit Court of County

68.230. TERMINATION OF DISTRICT, PROCEDURE. — 1. Upon the port authority's own initiative, and after proper notice being provided and a public hearing being conducted in accordance with subsection 2 of this section, any district may be terminated by a resolution of the board, provided that there are no outstanding obligations secured in any way by district revenues produced from such district. A copy of such resolution shall be filed with the Missouri highways and transportation commission within thirty days of its passage.

2. The public hearing required by this section shall be held and notice of such public hearing shall be given in the manner set forth in section 68.215. The notice shall contain the following information:

- (1) The date, time, and place of the public hearing;
 - (2) A statement that the port authority proposes a resolution terminating the district;
- and

- (3) A statement that all interested parties will be given an opportunity to be heard.

3. Notwithstanding the requirements of this section, if the port authority that has formed the district is dissolved in accordance with this chapter, the district shall automatically be terminated, and any taxes levied shall simultaneously be repealed, except that this subsection shall not apply in such instance when a local port authority is dissolved pursuant to subsection 6 of section 68.060 in order to consolidate into a regional port authority.

68.235. LEVY OF PROPERTY TAX AUTHORIZED — VOTE REQUIRED — BALLOT LANGUAGE — REPEAL OF TAX. — 1. For the purposes of providing funds to pay all, or any portion of, the qualified project costs associated with any approved project, subsequent to the establishment of a district pursuant to this act, and subsequent to the circuit court's certification of a question regarding any proposed real property tax needed to fund a project, a port authority may levy by resolution a tax upon real property within the boundaries of the district; provided however, no such resolution shall be final nor shall it take effect until the qualified voters approve, by mail-in ballot election conducted in accordance with section 68.255, the circuit court's certified question regarding such proposed real property tax. If a majority of the votes cast by the qualified voters voting on the proposed real property tax are in favor of the tax, then the resolution shall become effective. If a majority of the votes cast by the qualified voters voting are opposed to the real property tax, then the resolution seeking to levy the real property tax shall be deemed

to be null and void on the date on which the election may no longer be challenged pursuant to section 68.255. The port authority may levy a real property tax rate lower than the tax rate ceiling approved by the qualified voters pursuant to subsection 1 of this section and may, by resolution, increase that lowered tax rate to a level not exceeding the tax rate ceiling without approval of the qualified voters.

2. The ballot shall be substantially in the following form:

"Shall the (insert name of district) impose a real property tax upon (all real property) within the district at a rate of not more than (insert amount) dollars per hundred dollars assessed valuation for a period of (insert number) years from the date on which such tax is first imposed for the purpose of providing revenue for (insert general description of project or projects) in the district?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

3. A port authority may repeal or amend by resolution any real property tax imposed pursuant to this section before the expiration date of such real property tax unless the repeal or amendment of such real property tax will impair the port authority's ability to repay any obligations the port authority has incurred to pay any part of the cost of a port improvement project.

68.240. COUNTY COLLECTOR'S AND TREASURER'S DUTIES — USE OF MONEYS UPON EXPIRATION OF TAX. — 1. The county collector of each county in which the district is located, or the collector for the city in which the district is located if the district is located in a city not within a county, shall collect the real property tax made upon all real property within that county and district, in the same manner as other real property taxes are collected.

2. Every county or municipal collector and treasurer having collected or received district real property taxes shall, on or before the fifteenth day of each month and after deducting the reasonable and actual cost of such collection but not to exceed one percent of the total amount collected, remit to the port authority the amount collected or received by the port authority prior to the first day of such month. Upon receipt of such money, the port authority shall execute a receipt therefor, which shall be forwarded or delivered to the county collector or city treasurer who collected such money. The port authority shall deposit such sums which are designated for a specific project into a special trust fund to be expended solely for such purpose, or to the port authority treasury if such sums are not designated. The county or municipal collector or treasurer, and port authority shall make final settlement of the port authority account and costs owing, not less than once each year, if necessary.

3. Upon the expiration of any real property tax adopted pursuant to this section which is designated for a specific project, all funds remaining in the special trust fund shall continue to be used solely for the specific purpose designated in the ballot adopted by the qualified voters. Any funds in such special trust fund which are not needed for current expenditures may be invested by the port authority pursuant to applicable laws relating to the investment of other port authority funds and the port authority may use such funds for other approved port improvement projects.

68.245. LEVY OF SALES AND USE TAX AUTHORIZED — BALLOT LANGUAGE — COLLECTION OF TAX, DEPOSIT OF MONEYS — REPEAL OF TAX. — 1. For the purposes of providing funds to pay all, or any portion of, the qualified project costs associated with any approved project, subsequent to the establishment of a district pursuant to this act, and subsequent to the circuit court's certification of a question regarding any proposed

sales and use tax needed to fund a project, a port authority may levy by resolution a district wide sales and use tax on all retail sales made in such district which are subject to taxation pursuant to sections 144.010 to 144.525, except sales of motor vehicles, trailers, boats or outboard motors, and sales to or from public utilities. Any sales and use tax imposed pursuant to this section may be imposed in increments of one-eighth of one percent, up to a maximum of one percent; except that, no resolution adopted pursuant to this section shall be final nor shall it take effect until the qualified voters approve, by mail-in ballot election conducted in accordance with section 68.250, the circuit court's certified question regarding such proposed sales and use tax. If a majority of the votes cast by the qualified voters on the proposed sales and use tax are in favor of the sales and use tax, then the resolution shall become effective. If a majority of the votes cast by the qualified voters are opposed to the sales and use tax, then the resolution seeking to levy the sales and use tax shall be deemed null and void on the date on which the election may no longer be challenged pursuant to section 68.255.

2. The ballot shall be substantially in the following form:

"Shall the (insert name of district) impose a district wide sales and use tax at the maximum rate of (insert amount) for a period of (insert number) years from the date on which such tax is first imposed for the purpose of providing revenue for (insert general description of project or projects)?"

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

3. Within ten days after the qualified voters have approved the imposition of the sales and use tax, the port authority shall, in accordance with section 32.087, notify the director of revenue. The sales and use tax authorized by this section shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of such sales and use tax.

4. The director of revenue shall collect any sales and use tax pursuant to section 32.087.

5. In each district in which a sales and use tax is imposed pursuant to this section, every retailer shall add such additional tax imposed by the port authority to such retailer's sale price, and when so added such tax shall constitute a part of the purchase price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price.

6. The penalties provided in sections 144.010 to 144.525 shall apply to violations of this section.

7. All revenue received by the port authority from a sales and use tax imposed pursuant to this section which is designated for a specific project shall be deposited into a special trust fund to be expended solely for such purpose, or to the port authority's treasury if such sums are not designated. Upon the expiration of any sales and use tax adopted pursuant to this section, all funds remaining in the special trust fund shall continue to be used solely for the specific purpose designated in the ballot adopted by the qualified voters. Any funds in such special trust fund which are not needed for current expenditures may be invested by the port authority pursuant to applicable laws relating to the investment of other port authority funds and the port authority may use such funds for other approved port improvement projects.

8. A port authority may repeal by resolution any sales and use tax imposed pursuant to this section before the expiration date of such sales and use tax unless the repeal of such sales and use tax will impair the port authority's ability to repay, or unless the sales and use tax in any way secure any outstanding obligations the port authority has incurred to pay any part of the qualified project costs of any approved port improvement project.

68.250. CONDUCTING OF ELECTION, PROCEDURE. — 1. Notwithstanding the provisions of chapter 115 except the provisions of section 115.125, when applicable, an election for any proposed real property tax or proposed sales and use tax, or both, within a district pursuant to this act shall be conducted in accordance with the provisions of this section.

2. After the board has passed a resolution approving the levy of a real property tax or a sales and use tax, or both, the board shall provide written notice of such resolution, along with the circuit court's certified question regarding the real property tax or the sales and use tax, or both, as applicable, to the election authority. The board shall be entitled to repeal or amend such resolution provided that written notice of such repeal or amendment is delivered to the election authority prior to the date that the election authority mails the ballots to the qualified voters.

3. Upon receipt of written notice of a port authority's resolution, along with the circuit court's certified question, for the levy of a real property tax or a sales and use tax, or both, the election authority shall:

(1) Specify a date upon which the election shall occur, which date shall be a Tuesday and shall be, unless otherwise approved by the board, and election authority and applicable circuit court pursuant to section 115.125, not earlier than the tenth Tuesday, and not later than the fifteenth Tuesday, after the date the board passes the resolution and shall not be on the same day as an election conducted pursuant to the provisions of chapter 115;

(2) Publish notice of the election in a newspaper of general circulation within the municipality two times. The first publication date shall be not more than forty-five, but not less than thirty-five, days prior to the date of the election and the second publication date shall be not more than twenty, and not less than ten, days prior to the date of the election. The published notice shall include, but not be limited to, the following information:

- (a) The name and general boundaries of the district;
- (b) The type of tax proposed (real property tax or sales and use tax or both), its rate or rates, and its purpose or purposes;
- (c) The date the ballots for the election shall be mailed to qualified voters;
- (d) The date of the election;
- (e) The applicable definition of qualified voters;
- (f) A statement that persons residing in the district shall register to vote with the election authority on or before the thirtieth day prior to the date of the election in order to be a qualified voter for purposes of the election;
- (g) A statement that the ballot shall be returned to the election authority's office in person, or by depositing the ballot in the United States mail addressed to the election authority's office and postmarked, not later than the date of the election; and
- (h) A statement that any qualified voter that did not receive a ballot in the mail or lost the ballot received in the mail may pick up a mail-in ballot at the election authority's office, specifying the dates and time such ballot will be available and the location of the election authority's office;

(3) The election authority shall mail the ballot, a notice containing substantially the same information as the published notice and a return addressed envelope directed to the election authority's office with a sworn affidavit on the reverse side of such envelope for the qualified voter's signature, to each qualified voter not more than fifteen days and not less than ten days prior to the date of the election. For purposes of mailing ballots to real property owners, only one ballot shall be mailed per capita at the address shown on the official, or recorded, real estate records of the county recorder, or the city recorder of deeds if the district is located in a city not within a county, as of the thirtieth day prior to the date of the election. Such affidavit shall be in substantially the following form:
FOR REGISTERED VOTERS:

I hereby declare under penalties of perjury that I reside in the Port Improvement District No. (insert name of district) and I am a registered voter and qualified to vote in this election.

.....
Qualified Voter's Signature

.....
Printed Name of Qualified Voter

FOR REAL PROPERTY OWNERS:

I hereby declare under penalty of perjury that I am the owner of real property in the Port Improvement District No. (insert name of district) and qualified to vote in this election, or authorized to affix my signature on behalf of the owner (named below) of real property in the Port Improvement District No. (insert name of district) which is qualified to vote in this election.

.....
Signature

.....
Print Name of Real Property Owner

If Signer is Different from Owner:

Name of Signer:

State Basis of Legal Authority to Sign:

All persons or entities having a fee ownership in the property shall sign the ballot. Additional signature pages may be affixed to this ballot to accommodate all required signatures.

4. Each qualified voter shall have one vote. Each voted ballot shall be signed with the authorized signature.

5. Mail-in ballots shall be returned to the election authority's office in person, or by depositing the ballot in the United States mail addressed to the election authority's office and postmarked no later than the date of the election. The election authority shall transmit all voted ballots to a team of judges of not less than four. The judges shall be selected by the election authority from lists it has compiled. Upon receipt of the voted ballots, the judges shall verify the authenticity of the ballots, canvass the votes, and certify the results. Certification by the election judges shall be final and shall be immediately transmitted to the election authority. Any qualified voter who voted in such election may contest the result in the same manner as provided in chapter 115.

6. The results of the election shall be entered upon the records of the election authority and two certified copies of the election results shall be filed with the port authority and entered upon the records of the port authority.

7. The port authority shall reimburse the election authority for the costs it incurs to conduct an election under this section.

8. Notwithstanding anything to the contrary, nothing in this act shall prevent a port authority from proposing both a real property tax levy question and a sales and use tax levy question to the district's qualified voters in the same election.

68.255. STATUTE OF LIMITATIONS. — No lawsuit to set aside a district established or a tax levied under this act, or to otherwise question the validity of the proceedings related thereto, shall be brought after the expiration of ninety days from the effective date of the circuit court judgment establishing such district in question or the effective date of the resolution levying such tax in question.

68.259. NONSEVERABILITY CLAUSE. — Notwithstanding the provisions of section 1.140 to the contrary, the provisions of sections 68.025, 68.035, 68.040, 68.057, 68.070, 68.200, 68.205, 68.210, 68.215, 68.220, 68.225, 68.230, 68.235, 68.240, 68.245, 68.250, 68.255, and

68.260 as contained in this act shall be nonseverable, and if any provision is for any reason held to be invalid, such decision shall invalidate all of the remaining provisions of sections 68.025, 68.035, 68.040, 68.057, 68.070, 68.200, 68.205, 68.210, 68.215, 68.220, 68.225, 68.230, 68.235, 68.240, 68.245, 68.250, 68.255, and 68.260 as contained in this act.

68.260. APPLICABILITY OF LAW — REPORT REQUIRED. — 1. The provisions of this section shall only apply to a port authority that has formed a district.

2. In addition to any other report required of a port authority, within one hundred twenty days following the last day of the port authority's fiscal year, the board shall submit a report to the clerk of either the municipality or county which formed the port authority pursuant to section 68.010, and to the Missouri department of transportation stating the services provided, revenues collected and expenditures made by the district during such fiscal year, and copies of written resolutions approved by the board during the fiscal year. The municipal clerk or county clerk, as applicable, shall retain this report as part of the official records of the municipality or county and shall also cause this report to be spread upon the records of the governing body.

3. In addition to the report required pursuant to subsection 2 of this section, upon the approval by the qualified voters of a real property tax or sales and use tax, or both, in accordance with the act, each authority shall annually submit a report to the auditor of the state of Missouri in accordance with section 105.145.

Approved July 12, 2010

SB 583 [HCS SCS SB 583]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Entitles consumers with long-term insurance policies and Medicare supplement policies to premium refunds for unearned portions

AN ACT to repeal sections 208.215, 301.560, 303.025, 303.040, 354.442, 375.1152, 375.1155, 375.1175, 375.1255, 376.717, 376.718, 376.724, 376.725, 376.732, 376.733, 376.734, 376.735, 376.737, 376.738, 376.740, 376.743, 376.758, 376.816, 376.1109, and 376.1450, RSMo, and to enact in lieu thereof thirty new sections relating to insurance regulation, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 208.215. Payer of last resort — liability for debt due the state, ceiling — rights of department, when, procedure, exception — report of injuries required, form, recovery of funds — recovery of medical assistance paid, when — court may adjudicate rights of parties, when.
- 301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates — proof of educational seminar required, exceptions, contents of seminar.
- 303.025. Duty to maintain financial responsibility, residents and nonresidents, misdemeanor penalty for failure to maintain — exception, methods — court to notify department of revenue, additional punishment, right of appeal.
- 303.040. All motor vehicle accidents to be reported — director to notify all other parties, contents — parties to furnish information — nonresident requirements.
- 354.442. Disclosure information to enrollees required, when.
- 375.024. Life insurance producer examinations, review of — collection of data — annual report — rulemaking authority.
- 375.539. Hazardous operation, discontinuation determination, standards for — issuance of order by director, hearing procedure.

- 375.1152. Definitions.
- 375.1155. Receiver may petition for injunctions, restraining orders — purposes — delinquency proceeding does not stay other rights and enforcement.
- 375.1175. Grounds for liquidation — voluntary dissolution and liquidation, conditions.
- 375.1191. Netting agreements and qualified financial contracts, exercise of certain rights and acts not to be prohibited — termination of netting agreement, transfer of amount owed, receiver's duties — applicability of statute.
- 375.1255. Company action level event, occurrence of, when — effect, duties of insurer — plan to be submitted, approval of, revision of, when — copies filed with all states in which insurer is authorized to transact business.
- 376.717. Coverages provided, persons covered — coverage not provided, when — maximum benefits allowable.
- 376.718. Definitions.
- 376.724. Impaired insurers, association's options, duties — insolvent insurers, association's options, duties — alternative policies, requirements.
- 376.725. Terminated coverage, reissuance of, premium set, how — obligation to cease, date — interest rate, guaranteed minimum.
- 376.732. Director to have association's powers and duties, when — association may appear in court, when.
- 376.733. Assignment of rights to association by persons receiving benefits, when — subrogation rights.
- 376.734. Additional powers of association.
- 376.735. Assessments against members, when due, classes — amounts, how determined.
- 376.737. Deferment of assessment, how, when — maximum assessment — refund of, when — members may increase premiums to cover assessments.
- 376.738. Certificate of contribution, when issued.
- 376.740. Plan of operation, required, approval of director — provisions of plan.
- 376.743. Board of directors, powers.
- 376.758. Law inapplicable to insolvent insurers on effective date of law.
- 376.816. Adopted children to be provided health care coverage on the same basis as other dependents — effective from date of birth or on placement — placement defined.
- 376.882. Cancellation of policy, refund required — notification.
- 376.1109. Policies, content requirements, provisions prohibited — rules authorized — cancellation, refund required.
- 376.1450. Enrollee's right to receive documents and materials in printed or electronic form, when.
 - 1. State children's health insurance information to be provided by child care providers and public schools — rulemaking authority — report.
 - B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.215, 301.560, 303.025, 303.040, 354.442, 375.1152, 375.1155, 375.1175, 375.1255, 376.717, 376.718, 376.724, 376.725, 376.732, 376.733, 376.734, 376.735, 376.737, 376.738, 376.740, 376.743, 376.758, 376.816, 376.1109, and 376.1450, RSMo, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 208.215, 301.560, 303.025, 303.040, 354.442, 375.024, 375.539, 375.1152, 375.1155, 375.1175, 375.1191, 375.1255, 376.717, 376.718, 376.724, 376.725, 376.732, 376.733, 376.734, 376.735, 376.737, 376.738, 376.740, 376.743, 376.758, 376.816, 376.882, 376.1109, 376.1450, and 1, to read as follows:

208.215. PAYER OF LAST RESORT — LIABILITY FOR DEBT DUE THE STATE, CEILING — RIGHTS OF DEPARTMENT, WHEN, PROCEDURE, EXCEPTION — REPORT OF INJURIES REQUIRED, FORM, RECOVERY OF FUNDS — RECOVERY OF MEDICAL ASSISTANCE PAID, WHEN — COURT MAY ADJUDICATE RIGHTS OF PARTIES, WHEN. — 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made [in] on behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or

disability or benefits arising from a health insurance program to which the participant may be entitled. **Any health benefit plan as defined in section 376.1350, third party administrator, administrative service organization, and pharmacy benefits manager, shall process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:**

(1) For a period of three years from the date services were provided or rendered; however, an entity:

(a) Shall not be required to reimburse for items or services which are not covered under MO HealthNet;

(b) Shall not deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to provide prior authorization;

(c) Shall not be required to reimburse for items or services for which a claim was previously submitted to the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager by the health care provider or the participant and the claim was properly denied by the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager for procedural reasons, except for timely filing, type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(d) Shall not be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim for subrogation has been filed; and

(e) Shall reimburse for items or services to the same extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it had been properly billed at the point of sale; and

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division

in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A [recipient] **participant** who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a [recipient] **participant** to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any

verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of the participant but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. **The computerized records of the MO HealthNet division, certified by the director or his designee, shall be prima facie evidence of proof of moneys expended and the amount of the debt due the state.**

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, [irrespective] **regardless** of whether [or not] an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the participant's entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The notice of lien shall contain the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be filed with the recorder. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled; or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

(1) Actual and legal issues of liability as may exist between the [recipient] **participant** and the liable party;

(2) Total funds available for settlement; and

(3) An estimate of the cost to the division of pursuing its claim.

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES — PROOF OF EDUCATIONAL SEMINAR REQUIRED, EXCEPTIONS, CONTENTS OF SEMINAR. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business. Such application shall include an annual certification that the applicant has a bona fide established place of business for the first three years and only for every other year thereafter. The

certification shall be performed by a uniformed member of the Missouri state highway patrol or authorized or designated employee stationed in the troop area in which the applicant's place of business is located; except that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed. When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located or, if the applicant's place of business is located within the jurisdiction of a metropolitan police department in a first class county, by an officer of such metropolitan police department. A bona fide established place of business for any new motor vehicle franchise dealer, used motor vehicle dealer, boat dealer, powersport dealer, wholesale motor vehicle dealer, trailer dealer, or wholesale or public auction shall be a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading, servicing, or exchanging of motor vehicles, boats, personal watercraft, or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name of the business set forth in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street on which multiple vehicles, boats, personal watercraft, or trailers may be displayed. The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department. Dealers who sell only emergency vehicles as defined in section 301.550 are exempt from maintaining a bona fide place of business, including the related law enforcement certification requirements, and from meeting the minimum yearly sales;

(2) The initial application for licensure shall include a photograph, not to exceed eight inches by ten inches but no less than five inches by seven inches, showing the business building, lot, and sign. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, powersport dealers, wholesale motor vehicle dealers, trailer dealers, and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be

executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party. Additionally, every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, [trailer dealer,] or boat dealer shall furnish with the application a copy of a current dealer garage policy bearing the policy number and name of the insurer and the insured;

(4) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new vehicle manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, powersport dealer, wholesale motor vehicle auction, trailer dealer, or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number and two additional number plates or certificates of number within eight working hours after presentment of the application. Upon renewal, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or new or used motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise	
dealers	D-0 through D-999
New powersport dealers and motorcycle franchise	
dealers	D-1000 through D-1999
Used motor vehicle, used powersport, and used motorcycle	
dealers	D-2000 through D-9999
Wholesale motor vehicle	
dealers	W-0 through W-1999

Wholesale motor vehicle	
auctions	WA-0 through WA-999
New and used trailer	
dealers	T-0 through T-9999
Motor vehicle, trailer, and boat	
manufacturers	DM-0 through DM-999
Public motor vehicle	
auctions	A-0 through A-1999
Boat dealers	M-0 through M-9999
New and used recreational motor vehicle	
dealers	RV-0 through RV-999

For purposes of this subsection, qualified transactions shall include the purchase of salvage titled vehicles by a licensed salvage dealer. A used motor vehicle dealer who also holds a salvage dealer's license shall be allowed one additional plate or certificate number per fifty-unit qualified transactions annually. In order for salvage dealers to obtain number plates or certificates under this section, dealers shall submit to the department of revenue on August first of each year a statement certifying, under penalty of perjury, the dealer's number of purchases during the reporting period of July first of the immediately preceding year to June thirtieth of the present year. The provisions of this subsection shall become effective on the date the director of the department of revenue begins to reissue new license plates under section 301.130, or on December 1, 2008, whichever occurs first. If the director of revenue begins reissuing new license plates under the authority granted under section 301.130 prior to December 1, 2008, the director of the department of revenue shall notify the revisor of statutes of such fact.

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of new motor vehicle manufacturers, motor vehicle dealers, powersport dealers, recreational motor vehicle dealers, and trailer dealers, the department shall issue one number plate bearing the distinctive dealer license number and may issue two additional number plates to the applicant upon payment by the manufacturer or dealer of a fifty dollar fee for the number plate bearing the distinctive dealer license number and ten dollars and fifty cents for each additional number plate. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty dollar fee. Additional number plates and as many additional certificates of number may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. New motor vehicle manufacturers shall not be issued or possess more than three hundred forty-seven additional number plates or certificates of number annually. New and used motor vehicle dealers, powersport dealers, wholesale motor vehicle dealers, boat dealers, and trailer dealers are limited to one additional plate or certificate of number per ten-unit qualified transactions annually. New and used recreational motor vehicle dealers are limited to two additional plates or certificate of number per ten-unit qualified transactions annually for their first fifty transactions and one additional plate or certificate of number per ten-unit qualified transactions thereafter. An applicant seeking the issuance of an initial license shall indicate on his or her initial application the applicant's proposed annual number of sales in order for the director to issue the appropriate number of additional plates or certificates of number. A motor vehicle dealer, trailer dealer, boat dealer, powersport dealer, recreational motor vehicle dealer, motor vehicle manufacturer, boat manufacturer, or wholesale motor vehicle dealer obtaining a distinctive dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the

original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated. Wholesale and public auctions shall be issued a certificate of dealer registration in lieu of a dealer number plate. In order for dealers to obtain number plates or certificates under this section, dealers shall submit to the department of revenue on August first of each year a statement certifying, under penalty of perjury, the dealer's number of sales during the reporting period of July first of the immediately preceding year to June thirtieth of the present year.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned by a new motor vehicle manufacturer. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle or trailer owned and held for resale by a motor vehicle dealer for use by a customer who is test driving the motor vehicle, for use and display purposes during, but not limited to, parades, private events, charitable events, or for use by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition. Trailer dealers may display their dealer license plates in like manner, except such plates may only be displayed on trailers owned and held for resale by the trailer dealer.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer on a vessel or vessel trailer only, but shall not be displayed on any motor vehicle owned by a boat manufacturer, boat dealer, or trailer dealer, or vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and boat manufacturers may display their certificate of number on a vessel or vessel trailer when transporting a vessel or vessels to an exhibit or show.

9. (1) Every application for the issuance of a used motor vehicle dealer's license shall be accompanied by proof that the applicant, within the last twelve months, has completed an educational seminar course approved by the department as prescribed by subdivision (2) of this subsection. Wholesale and public auto auctions and applicants currently holding a new or used license for a separate dealership shall be exempt from the requirements of this subsection. The provisions of this subsection shall not apply to current new motor vehicle franchise dealers or motor vehicle leasing agencies or applicants for a new motor vehicle franchise or a motor vehicle leasing agency. The provisions of this subsection shall not apply to used motor vehicle dealers who were licensed prior to August 28, 2006.

(2) The educational seminar shall include, but is not limited to, the dealer requirements of sections 301.550 to 301.573, the rules promulgated to implement, enforce, and administer sections 301.550 to 301.570, and any other rules and regulations promulgated by the department.

303.025. DUTY TO MAINTAIN FINANCIAL RESPONSIBILITY, RESIDENTS AND NONRESIDENTS, MISDEMEANOR PENALTY FOR FAILURE TO MAINTAIN — EXCEPTION, METHODS — COURT TO NOTIFY DEPARTMENT OF REVENUE, ADDITIONAL PUNISHMENT, RIGHT OF APPEAL. — 1. No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register or maintain registration of a motor vehicle, or permit another person to operate such vehicle, unless the owner maintains the financial responsibility which conforms to the requirements of the laws of this state. **No nonresident shall operate or permit another person to operate in this state a motor vehicle registered to such nonresident unless the nonresident maintains the financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence.** Furthermore, no person shall operate a motor vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which

covers the person's operation of the other's vehicle; however, no owner **or nonresident** shall be in violation of this subsection if he or she fails to maintain financial responsibility on a motor vehicle which is inoperable or being stored and not in operation. The director may prescribe rules and regulations for the implementation of this section.

2. A motor vehicle owner shall maintain the owner's financial responsibility in a manner provided for in section 303.160, or with a motor vehicle liability policy which conforms to the requirements of the laws of this state. **A nonresident motor vehicle owner shall maintain the owner's financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence.**

3. Any person who violates this section is guilty of a class C misdemeanor. However, no person shall be found guilty of violating this section if the operator demonstrates to the court that he or she met the financial responsibility requirements of this section at the time the peace officer, commercial vehicle enforcement officer or commercial vehicle inspector wrote the citation. In addition to any other authorized punishment, the court shall notify the director of revenue of any person convicted pursuant to this section and shall do one of the following:

(1) Enter an order suspending the driving privilege as of the date of the court order. If the court orders the suspension of the driving privilege, the court shall require the defendant to surrender to it any driver's license then held by such person. The length of the suspension shall be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of revenue the order of suspension of driving privilege and any license surrendered within ten days;

(2) Forward the record of the conviction for an assessment of four points; [or]

(3) In lieu of an assessment of points, render an order of supervision as provided in section 302.303, RSMo. An order of supervision shall not be used in lieu of points more than one time in any thirty-six-month period. Every court having jurisdiction pursuant to the provisions of this section shall forward a record of conviction to the Missouri state highway patrol, or at the written direction of the Missouri state highway patrol, to the department of revenue, in a manner approved by the director of the department of public safety. The director shall establish procedures for the record keeping and administration of this section; **or**

(4) For a nonresident, suspend the nonresident's driving privileges in this state in accordance with section 303.030 and notify the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides in accordance with section 303.080.

4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370 shall be construed as prohibiting the department of insurance, financial institutions and professional registration from approving or authorizing those exclusions and limitations which are contained in automobile liability insurance policies and the uninsured motorist provisions of automobile liability insurance policies.

5. If a court enters an order of suspension, the offender may appeal such order directly pursuant to chapter 512, RSMo, and the provisions of section 302.311, RSMo, shall not apply.

303.040. ALL MOTOR VEHICLE ACCIDENTS TO BE REPORTED — DIRECTOR TO NOTIFY ALL OTHER PARTIES, CONTENTS — PARTIES TO FURNISH INFORMATION — NONRESIDENT REQUIREMENTS. — 1. The operator or owner of every motor vehicle which is involved in an accident within this state, **including a nonresident operator or owner of a motor vehicle**, or the owner of a legally or illegally parked car which is in any manner involved in an accident within this state, with an uninsured motorist, upon the streets or highways thereof, or on any publicly or privately owned parking lot or parking facility generally open for use by the public, in which any person is killed or injured or in which damage to property of any one person, including himself, in excess of five hundred dollars is sustained, and the owner or operator of every motor vehicle which is involved in an accident within this state if such owner or operator does not carry motor vehicle liability insurance shall, within thirty days after such accident, report

the matter in writing to the director. Such report, the form of which shall be prescribed by the director, shall provide the operator with notice of the following:

(1) That it is the responsibility of the operator, not the state, to bring an action at law on the claim of the operator arising out of the accident;

(2) That the security deposited shall only be applied to the payment of a judgment against the person or persons on whose behalf the deposit was made;

(3) That the department of revenue shall return the deposit to the depositor after the expiration of one year from the date of the accident, or as otherwise provided in section 303.060. In addition, the report shall contain such information as will enable the director to determine whether the requirements for the deposit of security under section 303.030 are inapplicable by reason of the existence of insurance or other exceptions specified in this chapter, or whether the required financial responsibility has been met by the owner or operator of the motor vehicle as required by section 303.025. The director may rely upon the accuracy of such information unless and until he has reason to believe that the information is erroneous. If such operator be physically incapable of making such report, the owner of the motor vehicle involved in such accident shall, within thirty days after learning of the accident, make such report. If the operator is also the owner and is incapable of filing such report as is required by this section, then the report will be filed as soon as the operator-owner is so capable. If the report is late by reason of incapability, a doctor's certificate must accompany the report certifying same. The operator or the owner shall furnish such additional relevant information as the director shall require.

2. If any party involved in an accident files a report under this section, the director shall notify, within ten days after receipt of the report, all other parties involved in the accident as specified in the report that a report has been filed and such other parties shall then furnish, within ten days, the director with such information as the director may request.

3. If any party involved in an accident in this state is a nonresident uninsured motorist, the nonresident uninsured operator or owner of the motor vehicle and any law enforcement agency responding to such accident shall report the involvement of an uninsured nonresident motorist in an accident occurring in this state to the director, and any resident operator or owner of a motor vehicle involved in an accident with an uninsured nonresident motorist may report such accident to the director in accordance with the provisions of subsections 1 and 2 of this section.

354.442. DISCLOSURE INFORMATION TO ENROLLEES REQUIRED, WHEN. — 1. Each enrollee, and upon request each prospective enrollee prior to enrollment, shall be supplied with written disclosure information. In the event of any inconsistency between any separate written disclosure statement and the enrollee contract or evidence of coverage, the terms of the enrollee contract or evidence of coverage shall be controlling. The information to be disclosed in writing shall include at a minimum the following:

(1) A description of coverage provisions, health care benefits, benefit maximums, including benefit limitations;

(2) A description of any exclusions of coverage, including the definition of medical necessity used in determining whether benefits will be covered;

(3) A description of all prior authorization or other requirements for treatments and services;

(4) A description of utilization review policies and procedures used by the health maintenance organization, including:

(a) The circumstances under which utilization review shall be undertaken;

(b) The toll-free telephone number of the utilization review agent;

(c) The time frames under which utilization review decisions shall be made for prospective, retrospective and concurrent decisions;

(d) The right to reconsideration;

(e) The right to an appeal, including the expedited and standard appeals processes and the time frames for such appeals;

- (f) The right to designate a representative;
 - (g) A notice that all denials of claims shall be made by qualified clinical personnel and that all notices of denial shall include information about the basis of the decision; and
 - (h) Further appeal rights, if any;
- (5) An explanation of an enrollee's financial responsibility for payment of premiums, coinsurance, co-payments, deductibles and any other charge, annual limits on an enrollee's financial responsibility, caps on payments for covered services and financial responsibility for noncovered health care procedures, treatments or services provided within the health maintenance organization;
- (6) An explanation of an enrollee's financial responsibility for payment when services are provided by a health care provider who is not part of the health maintenance organization's network or by any provider without required authorization, or when a procedure, treatment or service is not a covered health care benefit;
- (7) A description of the grievance procedures to be used to resolve disputes between a health maintenance organization and an enrollee, including:
- (a) The right to file a grievance regarding any dispute between an enrollee and a health maintenance organization;
 - (b) The right to file a grievance when the dispute is about referrals or covered benefits;
 - (c) The toll-free telephone number which enrollees may use to file a grievance;
 - (d) The department of insurance, financial institutions and professional registration's toll-free consumer complaint hot line number;
 - (e) The time frames and circumstances for expedited and standard grievances;
 - (f) The right to appeal a grievance determination and the procedures for filing such an appeal;
 - (g) The time frames and circumstances for expedited and standard appeals;
 - (h) The right to designate a representative;
 - (i) A notice that all disputes involving clinical decisions shall be made by qualified clinical personnel; and
 - (j) All notices of determination shall include information about the basis of the decision and further appeal rights, if any;
- (8) A description of a procedure for providing care and coverage twenty-four hours a day, seven days a week, for emergency services. Such description shall include the definition of emergency services and emergency medical condition, notice that emergency services are not subject to prior approval, and shall describe the enrollee's financial and other responsibilities regarding obtaining such services, including when such services are received outside the health maintenance organization's service area;
- (9) A description of procedures for enrollees to select and access the health maintenance organization's primary and specialty care providers, including notice of how to determine whether a participating provider is accepting new patients;
- (10) A description of the procedures for changing primary and specialty care providers within the health maintenance organization;
- (11) Notice that an enrollee may obtain a referral for covered services to a health care provider outside of the health maintenance organization's network or panel when the health maintenance organization does not have a health care provider with appropriate training and experience in the network or panel to meet the particular health care needs of the enrollee and the procedure by which the enrollee may obtain such referral;
- (12) A description of the mechanisms by which enrollees may participate in the development of the policies of the health maintenance organization;
- (13) Notice of all appropriate mailing addresses and telephone numbers to be utilized by enrollees seeking information or authorization;
- (14) [A listing] **Listings** by specialty, which may be in [a] separate [document that is] **documents that are** updated annually, of the names, addresses and telephone numbers of all

participating providers, including facilities, and in addition in the case of physicians, board certification; and

(15) The director of the department of insurance, financial institutions and professional registration shall develop a standard credentialing form which shall be used by all health carriers when credentialing health care professionals in a managed care plan. If the health carrier demonstrates a need for additional information, the director of the department of insurance, financial institutions and professional registration may approve a supplement to the standard credentialing form. All forms and supplements shall meet all requirements as defined by the National Committee of Quality Assurance.

2. Each health maintenance organization shall, upon request of an enrollee or prospective enrollee, provide the following:

(1) A list of the names, business addresses and official positions of the membership of the board of directors, officers, controlling persons, owners or partners of the health maintenance organization;

(2) A copy of the most recent annual certified financial statement of the health maintenance organization, including a balance sheet and summary of receipts and disbursements prepared by a certified public accountant;

(3) A copy of the most recent individual, direct pay enrollee contracts;

(4) Information relating to consumer complaints compiled annually by the department of insurance, financial institutions and professional registration;

(5) The procedures for protecting the confidentiality of medical records and other enrollee information;

(6) An opportunity to inspect drug formularies used by such health maintenance organization and any financial interest in a pharmacy provider utilized by such organization. The health maintenance organization shall also disclose the process by which an enrollee or his representative may seek to have an excluded drug covered as a benefit;

(7) A written description of the organizational arrangements and ongoing procedures of the health maintenance organization's quality assurance program;

(8) A description of the procedures followed by the health maintenance organization in making decisions about the experimental or investigational nature of individual drugs, medical devices or treatments in clinical trials;

(9) Individual health practitioner affiliations with participating hospitals, if any;

(10) Upon written request, written clinical review criteria relating to conditions or diseases and, where appropriate, other clinical information which the organization may consider in its utilization review. The health maintenance organization may include with the information a description of how such information will be used in the utilization review process;

(11) The written application procedures and minimum qualification requirements for health care providers to be considered by the health maintenance organization;

(12) A description of the procedures followed by the health maintenance organization in making decisions about which drugs to include in the health maintenance organization's drug formulary.

3. Nothing in this section shall prevent a health maintenance organization from changing or updating the materials that are made available to enrollees.

4. The information to be provided under subsections 1 and 2 of this section may be provided online unless a paper copy is requested by the enrollee. A request by the enrollee may include written, oral or electronic means. Such requested paper copy shall be provided to the enrollee within fifteen business days.

375.024. LIFE INSURANCE PRODUCER EXAMINATIONS, REVIEW OF — COLLECTION OF DATA — ANNUAL REPORT — RULEMAKING AUTHORITY. — 1. The provisions of this section shall only apply to life insurance producer examinations.

2. The director or, at the director's discretion, a vendor under contract with the department, shall review license producer examinations subject to the provisions of this section if, during any twelve-month period beginning on September first of a year, the examinations exhibit an overall pass rate of less than seventy percent for first-time examinees.

3. In conformance with appropriate law relating to privacy, the department shall collect demographic information, including, race, gender, and national origin, from an individual taking a license examination subject to the provisions of this section.

4. The department shall compile an annual report based on the review required under subsection 2 of this section. The report shall indicate whether there was any disparity in the examination pass rate based on demographic information.

5. The director by rule may establish procedures as necessary to:

(1) Collect demographic information necessary to implement the provisions of this section; and

(2) Ensure that a review required under subsection 2 of this section is conducted and the resulting report is prepared. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

6. The director shall deliver the report prepared under this section to the governor, the lieutenant governor, the president pro tem of the senate, and the speaker of the house of representatives not later than December first of each year.

7. The first twelve-month period for which a license examination review may be required under this section shall begin September 1, 2010.

8. The director shall deliver the initial report required under this section, not later than December 1, 2011.

375.539. HAZARDOUS OPERATION, DISCONTINUATION DETERMINATION, STANDARDS FOR — ISSUANCE OF ORDER BY DIRECTOR, HEARING PROCEDURE. — 1. The director of the department of insurance, financial institutions and professional registration may deem an insurance company to be in such financial condition that its further transaction of business would be hazardous to policyholders, creditors, and the public, if such company is a property or casualty insurer, or both a property and casualty insurer, which has in force any policy with any single net retained risk larger than ten percent of that company's capital and surplus as of the December thirty-first next preceding.

2. The following standards, either singly or a combination of two or more, may be considered by the director to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to its policyholders, creditors, or the general public:

(1) Adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports, or summaries;

(2) The National Association of Insurance Commissioners Insurance Regulatory Information System and its other financial analysis solvency tools and reports;

(3) Whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;

(4) The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(5) Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty percent of the insurer's remaining surplus as regards to policyholders in excess of the minimum required;

(6) Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, excluding net capital gains, is greater than twenty percent of the insurer's remaining surplus as regards to policyholders in excess of the minimum required;

(7) Whether a reinsurer, obligor, or any entity within the insurer's insurance holding company system, is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations, and which in the opinion of the director may affect the solvency of the insurer;

(8) Contingent liabilities, pledges, or guaranties which either individually or collectively involve a total amount which in the opinion of the director may affect the solvency of the insurer;

(9) Whether any "controlling" person of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer. As used in this subdivision, the term "controlling" shall have the same meaning assigned to it in subdivision (2) of section 382.010;

(10) The age and collectibility of receivables;

(11) Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness, and reputation deemed necessary to serve the insurer in such position;

(12) Whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

(13) Whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the director;

(14) Whether management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;

(15) Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;

(16) Whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems;

(17) Whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles and standards of practice;

(18) Whether management persistently engages in material under reserving that results in adverse development;

(19) Whether transactions among affiliates, subsidiaries, or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity, or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;

(20) Any other finding determined by the director to be hazardous to the insurer's policyholders, creditors, or general public.

3. For the purposes of making a determination of an insurer's financial condition under this section, the director may:

(1) Disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) Make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates consistent with the National Association of Insurance Commissioners Accounting Policies and Procedures Manual, state laws and regulations;

(3) Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor;

(4) Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next twelve-month period.

4. If the director determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to its policyholders, creditors, or the general public, then the director may, to the extent authorized by law and in accordance with any procedures required by law, issue an order requiring the insurer to:

(1) Reduce the total amount of present and potential liability for policy benefits by reinsurance;

(2) Reduce, suspend, or limit the volume of business being accepted or renewed;

(3) Reduce general insurance and commission expenses by specified methods;

(4) Increase the insurer's capital and surplus;

(5) Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;

(6) File reports in a form acceptable to the director concerning the market value of an insurer's assets;

(7) Limit or withdraw from certain investments or discontinue certain investment practices to the extent the director deems necessary;

(8) Document the adequacy of premium rates in relation to the risks insured;

(9) File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or in such format as promulgated by the director;

(10) Correct corporate governance practice deficiencies, and adopt and utilize governance practices acceptable to the director;

(11) Provide a business plan to the director in order to continue to transact business in the state;

(12) Notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments, adjust rates for any non-life insurance product written by the insurer that the director considers necessary to improve the financial condition of the insurer.

5. An insurer subject to an order under subsection 4 of this section may request a hearing before the director in accordance with the provisions of chapter 536. The notice of hearing shall be served upon the insurer pursuant to section 536.067. The notice of hearing shall state the time and place of hearing and the conduct, condition, or ground upon which the director based the order. Unless mutually agreed between the director and the insurer, the hearing shall occur not less than ten days nor more than thirty days after notice is served and shall be either in Cole County or in some other place convenient to the parties designated by the director. The director shall hold all hearings under this

subsection privately, unless the insurer requests a public hearing, in which case the hearing shall be public.

6. This section shall not be interpreted to limit the powers granted the director by any laws or parts of laws of this state, nor shall this section be interpreted to supercede any laws or parts of laws of this state, except that if the insurer is a foreign insurer, the director's order under subsection 4 of this section may be limited to the extent expressly provided by any laws or parts of laws of this state.

375.1152. DEFINITIONS. — For purposes of sections 375.570 to 375.750 and 375.1150 to 375.1246, the following words and phrases shall mean:

(1) "Allocated loss adjustment expenses", those fees, costs or expenses reasonably chargeable to the investigation, negotiation, settlement or defense of an individual claim or loss or to the protection and perfection of the subrogation rights of any insolvent insurer arising out of a policy of insurance issued by the insolvent insurer. "Allocated loss adjustment expenses" shall include all court costs, fees and expenses; fees for service of process; fees to attorneys; costs of undercover operative and detective services; fees of independent adjusters or attorneys for investigation or adjustment of claims beyond initial investigation; costs of employing experts for preparation of maps, photographs, diagrams, chemical or physical analysis or for advice, opinion or testimony concerning claims under investigation or in litigation; costs for legal transcripts or testimony taken at coroner's inquests, criminal or civil proceedings; costs for copies of any public records; costs of depositions and court-reported or -recorded statements. "Allocated loss adjustment expenses" shall not include the salaries of officials, administrators or other employees or normal overhead charges such as rent, postage, telephone, lighting, cleaning, heating or similar expenses;

(2) "Ancillary state", any state other than a domiciliary state;

(3) "Creditor", a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent;

(4) "Delinquency proceeding", any proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer, and any summary proceeding under sections 375.1160, 375.1162 and 375.1164;

(5) "Director", the director of the department of insurance, financial institutions and professional registration;

(6) "Doing business" includes any of the following acts, whether effected by mail or otherwise:

(a) The issuance or delivery of contracts of insurance to persons resident in this state;

(b) The solicitation of applications for such contracts, or other negotiations preliminary to the execution of such contracts;

(c) The collection of premiums, membership fees, assessments, or other consideration for such contracts;

(d) The transaction of matters subsequent to execution of such contracts and arising out of them; or

(e) Operating under a license or certificate of authority, as an insurer, issued by the department of insurance, financial institutions and professional registration;

(7) "Domiciliary state", the state in which an insurer is incorporated or organized or, in the case of an alien insurer, its state of entry;

(8) "Fair consideration" is given for property or obligation:

(a) When in exchange for such property or obligation, as a fair equivalent thereof, and in good faith, property is conveyed or services are rendered or an obligation is incurred or an antecedent debt is satisfied; or

(b) When such property or obligation is received in good faith to secure a present advance or antecedent debt in an amount not disproportionately small as compared to the value of the property or obligation obtained;

-
- (9) "Foreign country", any jurisdiction not in the United States;
- (10) "Formal delinquency proceeding", any liquidation or rehabilitation proceeding;
- (11) "General assets", all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or classes of persons. As to specifically encumbered property, "general assets" includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets;
- (12) "Guaranty association", the Missouri property and casualty insurance guaranty association created by sections 375.771 to 375.779, as amended, the Missouri life and health insurance guaranty association created by sections 376.715 to 376.758, RSMo, as amended, and any other similar entity now or hereafter created by the laws of this state for the payment of claims of insolvent insurers. "Foreign guaranty association" means any similar entities now in existence or hereafter created by the laws of any other state;
- (13) "Insolvency" or "insolvent" means:
- (a) For an insurer issuing only assessable fire insurance policies:
- a. The inability to pay an obligation within thirty days after it becomes payable; or
- b. If an assessment be made within thirty days after such date, the inability to pay such obligation thirty days following the date specified in the first assessment notice issued after the date of loss;
- (b) For any other insurer, that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of:
- a. Any capital and surplus required by law for its organization; or
- b. The total par or stated value of its authorized and issued capital stock;
- (c) As to any insurer licensed to do business in this state as of August 28, 1991, which does not meet the standards established under paragraph (b) of this subdivision, the term "insolvency" or "insolvent" shall mean, for a period not to exceed three years from August 28, 1991, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the director under any other provisions of law;
- (d) For purposes of this subdivision "liabilities" shall include but not be limited to reserves required by statute or by the department of insurance, financial institutions and professional registration regulations or specific requirements imposed by the director upon a subject company at the time of admission or subsequent thereto;
- (e) For purposes of this subdivision, an obligation is payable within ninety days of the resolution of any dispute regarding the obligation;
- (14) "Insurer", any person who has done, purports to do, is doing or is licensed to do insurance business as described in section 375.1150, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision, or conservation by, any insurance department of any state. For purposes of sections 375.1150 to 375.1246, any other persons included under section 375.1150 shall be deemed to be insurers;
- (15) "Netting agreement":
- (a) **A contract or agreement (including terms and conditions incorporated by reference therein), including a master settlement agreement (which master settlement agreement, together with all schedules, confirmations, definitions and addenda thereto and transactions under any thereof, shall be treated as one netting agreement), that documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts and that provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with one or more qualified financial contracts or present or future payment or delivery obligations or payment or delivery entitlements thereunder (including liquidation or close-out values relating to such obligations or entitlements) among the parties to the netting agreement;**
-

(b) Any master agreement or bridge agreement for one or more master agreements described in paragraph (a) of this subdivision; or

(c) Any security agreement or arrangement or other credit enhancement or guarantee or reimbursement obligation related to any contract or agreement described in paragraph (a) or (b) of this subdivision; provided that any contract or agreement described in paragraph (a) or (b) of this subdivision relating to agreements or transactions that are not qualified financial contracts shall be deemed to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts;

(16) "Preferred claim", any claim with respect to which the terms of sections 375.1150 to 375.1246 accord priority of payment from the general assets of the insurer;

[(16)] (17) "Qualified financial contract", any commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, and any similar agreement that the director determines by rule to be a qualified financial contract for purposes of sections 375.1150 to 375.1246. For purposes of this subdivision, the following terms shall mean:

(a) "Commodity contract":

a. A contract for the purchase or sale of a commodity for future delivery on or subject to the rules of the board of trade or contract market under the Commodity Exchange Act, 7 U.S.C. Section 1, et seq., or a board of trade outside the United States;

b. An agreement that is subject to regulation under Section 19 of the Commodity Exchange Act, 7 U.S.C. Section 1, et seq., and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;

c. An agreement or transaction that is subject to regulation under Section 4c(b) of the Commodity Exchange Act, 7 U.S.C. Section 1, et seq., and that is commonly known to the commodities trade as a commodity option;

d. Any combination of the agreements or transactions referred to in this paragraph; or

e. Any option to enter into an agreement or transaction referred to in this paragraph;

(b) "Forward contract", "repurchase agreement", "securities contract", and "swap agreement", the same meaning as set forth in the Federal Deposit Insurance Act, 12 U.S.C. Section 1821(e)(8)(D), as amended;

(18) "Receiver", a receiver, liquidator, administrative supervisor, rehabilitator or conservator, as the context requires;

[(17)] (19) "Reciprocal state", any state other than this state in which in substance and effect, provisions substantially similar to subsection 1 of section 375.1176 and sections 375.1235, 375.1236, 375.1240, 375.1242 and 375.1244 have been enacted and are in force, and in which laws are in force requiring that the director of the state department of insurance, financial institutions and professional registration or equivalent official be the receiver of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers;

[(18)] (20) "Secured claim", any claim secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise, including a pledge of assets allocated to a separate account established pursuant to section 376.309, RSMo; but not including special deposit claims or claims against general assets. The term also includes claims which have become liens upon specific deposit claims or claims against general assets. The term also includes claims which have become liens upon specific assets by reason of judicial process;

[(19)] (21) "Special deposit claim", any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any claim secured by general assets;

[(20)] (22) "State", any state, district, or territory of the United States and the Panama Canal Zone;

~~[(21)]~~ **(23)** "Transfer" shall include the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest therein, or with the possession thereof, or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily, by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.

375.1155. RECEIVER MAY PETITION FOR INJUNCTIONS, RESTRAINING ORDERS — PURPOSES — DELINQUENCY PROCEEDING DOES NOT STAY OTHER RIGHTS AND ENFORCEMENT. — 1. Any receiver appointed in a proceeding under sections 375.1150 to 375.1246 may at any time apply for, and any court of general jurisdiction may grant, such restraining orders, preliminary and permanent injunctions, and other orders as may be deemed necessary and proper to prevent:

- (1) The transaction of further business;
- (2) The transfer of property;
- (3) Interference with the receiver or with a proceeding under sections 375.1150 to 375.1246;
- (4) Waste of the insurer's assets;
- (5) Dissipation and transfer of bank accounts;
- (6) The institution or further prosecution of any actions or proceedings;
- (7) The obtaining of preferences, judgments, attachments, garnishments or liens against the insurer, its assets or its policyholders;
- (8) The levying of execution against the insurer, its assets or its policyholders;
- (9) The making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the insurer;
- (10) The withholding from the receiver of books, accounts, documents, or other records relating to the business of the insurer; or
- (11) Any other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors or shareholders, or the administration of any proceeding under this act.

2. The receiver may apply to any court outside of the state for the relief described in subsection 1 of this section.

3. Notwithstanding any other provision of this section to the contrary, the commencement of a delinquency proceeding under sections 375.1150 to 375.1246 does not operate as a stay or prohibition of any right to cause of netting, liquidation, setoff, termination, acceleration or close out of obligations, or enforcement of any security agreement or arrangement or other credit enhancement or guarantee or reimbursement obligation under or in connection with any netting agreement or qualified financial contract as provided for in section 375.1191.

375.1175. GROUNDS FOR LIQUIDATION — VOLUNTARY DISSOLUTION AND LIQUIDATION, CONDITIONS. — 1. The director may petition the court for an order directing him to liquidate a domestic insurer or an alien insurer domiciled in this state on the basis:

- (1) Of any ground for an order of rehabilitation as specified in section 375.1165, whether or not there has been a prior order directing the rehabilitation of the insurer;
- (2) That the insurer is insolvent;
- (3) That the insurer is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors or the public;
- (4) That the insurer is found to be in such condition after examination that it could not meet the requirements for incorporation and authorization specified in the law under which it was incorporated or is doing business; or
- (5) That the insurer has ceased to transact the business of insurance for a period of one year.

2. Notwithstanding any other provision of this chapter, a domestic insurer organized as a stock insurance company may voluntarily dissolve and liquidate as a corporation under sections 351.462 to 351.482, provided that:

(1) The director, in his or her sole discretion, approves the articles of dissolution prior to filing such articles with the secretary of state. In determining whether to approve or disapprove the articles of dissolution, the director shall consider, among other factors, whether:

(a) The insurer's annual financial statements filed with the director show no written insurance premiums for five years; and

(b) The insurer has demonstrated that all policyholder claims have been satisfied or have been transferred to another insurer in a transaction approved by the director; and

(c) An examination of the insurer pursuant to sections 374.202 to 374.207 has been completed within the last five years; and

(2) The domestic insurer files with the secretary of state a copy of the director's approval, certified by the director, along with articles of dissolution as provided in section 351.462 or 351.468.

375.1191. NETTING AGREEMENTS AND QUALIFIED FINANCIAL CONTRACTS, EXERCISE OF CERTAIN RIGHTS AND ACTS NOT TO BE PROHIBITED — TERMINATION OF NETTING AGREEMENT, TRANSFER OF AMOUNT OWED, RECEIVER'S DUTIES — APPLICABILITY OF STATUTE. — 1. Notwithstanding any other provision of sections 375.1150 to 375.1246, including any provision permitting the modification of contracts, or other law of a state, no person shall be stayed or prohibited from exercising:

(1) A contractual right to cause the termination, liquidation, or acceleration or close out of obligations under or in connection with any netting agreement or qualified financial contract with an insurer because of:

(a) The insolvency, financial condition, or default of the insurer at any time; provided that the right is enforceable under applicable law other than sections 375.1150 to 375.1246; or

(b) The commencement of a formal delinquency proceeding under sections 375.1150 to 375.1246;

(2) Any right under a pledge, security, collateral, reimbursement, or guarantee agreement or arrangement or any similar security agreement or arrangement or other credit enhancement relating to one or more netting agreements or qualified financial contracts;

(3) Subject to any provision of section 375.1198, any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with one or more qualified financial contracts where the counterparty or its guarantor is organized under the laws of the United States or a foreign jurisdiction approved by the Securities Valuation Office (SVO) of the NAIC as eligible for netting; or

(4) If a counterparty to a master netting agreement or qualified financial contract with an insurer subject to a proceeding under sections 375.1150 to 375.1246 terminates, liquidates, closes out, or accelerates the agreement or contract, damages shall be measured as of the date or dates of termination, liquidation, close out, or acceleration. The amount of a claim for damages shall be actual direct compensatory damages calculated in accordance with subsection 6 of this section.

2. (1) Upon termination of a netting agreement or qualified financial contract, the net or settlement amount, if any, owed by a nondefaulting party to an insurer against which an application or petition has been filed under sections 375.1150 to 375.1246 shall be transferred to or on the order of the receiver for the insurer, even if the insurer is the defaulting party, notwithstanding any walkaway clause in the netting agreement or qualified financial contract.

(2) For purposes of this subsection, "walkaway clause" means a provision in a netting agreement or qualified financial contract that, after calculation of a value of a party's position or an amount due to or from one of the parties in accordance with its terms upon termination, liquidation, or obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of the party's status as a nondefaulting party.

(3) Any limited two-way payment or first method provision in a netting agreement or qualified financial contract with an insurer that has defaulted shall be deemed to be a full two-way payment or second method provision as against the defaulting insurer. Any such property or amount shall, except to the extent it is subject to one or more secondary liens or encumbrances or rights of netting or setoff, be a general asset of the insurer.

3. In making any transfer of a netting agreement or qualified financial contract of an insurer subject to a proceeding under sections 375.1150 to 375.1246, the receiver shall either:

(1) Transfer to one party, other than an insurer subject to a proceeding under sections 375.1150 to 375.1246, all netting agreements and qualified financial contracts between a counterparty or any affiliate of the counterparty and the insurer that is the subject of the proceeding, including:

(a) All rights and obligations of each party under each netting agreement and qualified financial contract; and

(b) All property, including any guarantees or other credit enhancement, securing any claims of each party under each netting agreement and qualified financial contract; or

(2) Transfer none of the netting agreements, qualified financial contracts, rights, obligations, or property referred to in subdivision (1) of this subsection with respect to the counterparty and any affiliate of the counterparty.

4. If a receiver for an insurer makes a transfer of one or more netting agreements or qualified financial contracts, the receiver shall use its best efforts to notify any person who is party to the netting agreements or qualified financial contracts of the transfer by noon, the receiver's local time, on the business day following the transfer. For purposes of this subsection, "business day" means a day other than a Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

5. Notwithstanding any other provision of sections 375.1150 to 375.1246, a receiver shall not avoid a transfer of money or other property arising under or in connection with a netting agreement or qualified financial contract, or any pledge, security, collateral, or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract, that is made before the commencement of a formal delinquency proceeding under sections 375.1150 to 375.1246. However, a transfer may be avoided under section 375.1182 if the transfer was made with actual intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

6. (1) In exercising the rights of disaffirmance or repudiation of a receiver with respect to any netting agreement or qualified financial contract to which an insurer is a party, the receiver for the insurer shall either:

(a) Disaffirm or repudiate all netting agreements and qualified financial contracts between a counterparty or any affiliate of the counterparty and the insurer that is the subject of the proceeding; or

(b) Disaffirm or repudiate none of the netting agreements and qualified financial contracts referred to in paragraph (a) of this subdivision with respect to the person or any affiliate of the person.

(2) Notwithstanding any other provision of sections 375.1150 to 375.1246, any claim of a counterparty against the estate arising from the receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract that has not been

previously affirmed in the liquidation or immediately preceding conservation or rehabilitation case shall be determined and shall be allowed or disallowed as if the claim had arisen before the date of the filing of the petition for liquidation or, if a conservation or rehabilitation proceeding is converted to a liquidation proceeding, as if the claim had arisen before the date of the filing of the petition for conservation or rehabilitation. The amount of the claim shall be the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation of the netting agreement or qualified financial contract. Actual direct compensatory damages does not include punitive or exemplary damages, damages for lost profit or lost opportunity or damages for pain and suffering, but does include normal and reasonable costs of cover or other reasonable measures of damages utilized in the derivatives, securities, or other market for the contract and agreement claims.

7. Contractual right, as used in this section, includes any right set forth in a rule or bylaw of a derivatives clearing organization as defined in the Commodity Exchange Act, a multilateral clearing organization as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991, a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade as defined in the Commodity Exchange Act, or in a resolution of the governing board thereof and any right, whether or not evidenced in writing, arising under statutory or common law, or under law merchant, or by reason of normal business practice.

8. The provisions of this section shall not apply to persons who are affiliates of the insurer that is the subject of the proceeding.

9. All rights of counterparties under sections 375.1150 to 375.1246 shall apply to netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts if the assets of each separate account are available only to counterparties to netting agreements and qualified financial contracts entered into on behalf of such separate account.

375.1255. COMPANY ACTION LEVEL EVENT, OCCURRENCE OF, WHEN — EFFECT, DUTIES OF INSURER — PLAN TO BE SUBMITTED, APPROVAL OF, REVISION OF, WHEN — COPIES FILED WITH ALL STATES IN WHICH INSURER IS AUTHORIZED TO TRANSACT BUSINESS. — 1. "Company action level event" means with respect to any insurer, any of the following events:

- (1) The filing of an RBC report by the insurer which indicates that:
 - (a) The insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC; or
 - (b) If a life and health insurer, the insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level capital and 2.5, and has a negative trend;
 - (c) **If a property and casualty insurer, the insurer has total adjusted capital which is greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the Property and Casualty RBC report instructions;**

(2) The notification by the director to the insurer of an adjusted RBC report that indicates the event in paragraph (a) [or], (b), or (c) of subdivision (1) of this subsection, if the insurer does not challenge the adjusted RBC report pursuant to section 375.1265;

(3) If pursuant to section 375.1265 the insurer challenges an adjusted RBC report that indicates the event described in subdivision (1) of this subsection, the notification by the director to the insurer that the director has, after a hearing, rejected the insurer's challenge.

2. In the event of a company action level event the insurer shall prepare and submit to the director an RBC plan which shall:

(1) Identify the conditions in the insurer which contribute to the company action level event;
(2) Contain proposals of corrective actions which the insurer intends to take and would be expected to result in the elimination of the company action level event;

(3) Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital or surplus. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense and benefit component;

(4) Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and

(5) Identify the quality of, and problems associated with, the insurer's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business and use of reinsurance in each case, if any.

3. The RBC plan shall be submitted:

(1) Within forty-five days of the company action level event; or

(2) If the insurer challenges an adjusted RBC report pursuant to section 375.1265 within forty-five days after notification to the insurer that the director has, after a hearing, rejected the insurer's challenge.

4. Within sixty days after the submission by an insurer of an RBC plan to the director, the director shall notify the insurer whether the RBC plan shall be implemented or is, in the judgment of the director, unsatisfactory. If the director determines the RBC plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which will render the RBC plan satisfactory, in the judgment of the director. Upon notification from the director, the insurer shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by the director, and shall submit the revised RBC plan to the director:

(1) Within forty-five days after the notification from the director; or

(2) If the insurer challenges the notification from the director pursuant to section 375.1265, within forty-five days after a notification to the insurer that the director has, after a hearing, rejected the insurer's challenge.

5. In the event of a notification by the director to an insurer that the insurer's RBC plan or revised RBC plan is unsatisfactory, the director may at the director's discretion, subject to the insurer's right to a hearing under section 375.1265, specify in the notification that the notification constitutes a regulatory action level event.

6. Every domestic insurer that files an RBC plan or revised RBC plan with the director shall file a copy of the RBC plan or revised RBC plan with the chief insurance regulatory official in any state in which the insurer is authorized to do business if:

(1) Such state has an RBC provision, substantially similar to subsection 1 of section 375.1267; and

(2) The chief insurance regulatory official of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the RBC plan or revised RBC plan in that state no later than the later of:

(a) Fifteen days after the receipt of notice to file a copy of its RBC plan or revised RBC plan with the state; or

(b) The date on which the RBC plan or revised RBC plan is filed under subsection 3 or 4 of this section.

376.717. COVERAGES PROVIDED, PERSONS COVERED — COVERAGE NOT PROVIDED, WHEN — MAXIMUM BENEFITS ALLOWABLE. — 1. Sections 376.715 to 376.758 shall provide coverage for the policies and contracts specified in subsection 2 of this section:

(1) To persons who, regardless of where they reside, except for nonresident certificate holders under group policies or contracts, are the beneficiaries, assignees or payees of the persons covered under subdivision (2) of this subsection; and

(2) To persons who are owners of or certificate holders under such policies or contracts [and], **other than structured settlement annuities**, who:

(a) Are residents of this state; or

(b) Are not residents, but only under all of the following conditions:

a. The insurers which issued such policies or contracts are domiciled in this state;

b. [Such insurers never held a license or certificate of authority in the states in which such persons reside;] **The persons are not eligible for coverage by an association in any other state due to the fact that the insurer was not licensed in such state at the time specified in such state's guaranty association law; and**

c. [Such] **The states in which the persons reside** have associations similar to the association created by sections 376.715 to 376.758; and

d. Such persons are not eligible for coverage by such associations].

(3) **For structured settlement annuities specified in subsection 2 of this section, subdivisions (1) and (2) of subsection 1 of this section shall not apply, and sections 376.715 to 376.758 shall, except as provided in subdivisions (4) and (5) of this subsection, provide coverage to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee:**

(a) Is a resident, regardless of where the contract owner resides; or

(b) Is not a resident, but only under both of the following conditions:

a. (i) The contract owner of the structured settlement annuity is a resident; or

(ii) The contract owner of the structure settlement annuity is not a resident, but:

i. The insurer that issued the structured settlement annuity is domiciled in this state; and

ii. The state in which the contract owner resides has an association similar to the association created under sections 376.715 to 376.758; and

b. Neither the payee or beneficiary nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides.

(4) Sections 376.715 to 376.758 shall not provide to a person who is a payee or beneficiary of a contract owner resident of this state, if the payee or beneficiary is afforded any coverage by such an association of another state.

(5) Sections 376.715 to 376.758 is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under sections 376.715 to 376.758 is provided coverage under the laws of any other state, the person shall not be provided coverage under sections 376.715 to 376.758. In determining the application of the provisions of this subdivision in situations where a person could be covered by such an association of more than one state, whether as an owner, payee, beneficiary, or assignee, sections 376.715 to 376.758 shall be construed in conjunction with the other state's laws to result in coverage by only one association.

2. Sections 376.715 to 376.758 shall provide coverage to the persons specified in subsection 1 of this section for direct, nongroup life, health, annuity [and supplemental] policies or contracts, **and supplemental contracts to any such policies or contracts, and for certificates under direct group policies and contracts, except as limited by the provisions of sections 376.715 to 376.758. Annuity contracts and certificates under group annuity contracts include allocated funding agreements, structured settlement annuities, and any immediate or deferred annuity contracts.**

3. Sections 376.715 to 376.758 shall not provide coverage for:

(1) Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder;

(2) Any policy or contract of reinsurance, unless assumption certificates have been issued;

(3) Any portion of a policy or contract to the extent that the rate of interest on which it is based, **or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:**

(a) Averaged over the period of four years prior to the date on which the association becomes obligated with respect to such policy or contract, exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four years before the association became obligated; and

(b) On and after the date on which the association becomes obligated with respect to such policy or contract exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available;

(4) Any **portion of a policy or contract issued to a plan or program of an employer, association or [similar entity] other person** to provide life, health, or annuity benefits to its employees or members to the extent that such plan or program is self-funded or uninsured, including but not limited to benefits payable by an employer, association or [similar entity] **other person** under:

(a) A "multiple employer welfare arrangement" as defined in [section 514 of the Employee Retirement Income Security Act of 1974] **29 U.S.C. Section 1144**, as amended;

(b) A minimum premium group insurance plan;

(c) A stop-loss group insurance plan; or

(d) An administrative services only contract;

(5) Any portion of a policy or contract to the extent that it provides dividends or experience rating credits, **voting rights**, or provides that any fees or allowances be paid to any person, including the policy or contract holder, in connection with the service to or administration of such policy or contract; [and]

(6) Any policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue such policy or contract in this state;

(7) **A portion of a policy or contract to the extent that the assessments required by section 376.735 with respect to the policy or contract are preempted by federal or state law;**

(8) **An obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the contract owner or policy owner, including without limitation:**

(a) **Claims based on marketing materials;**

(b) **Claims based on side letters, riders, or other documents that were issued by the insurer without meeting applicable policy form filing or approval requirements;**

(c) **Misrepresentations of or regarding policy benefits;**

(d) **Extra-contractual claims;**

(e) **A claim for penalties or consequential or incidental damages;**

(9) **A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer;**

(10) **An unallocated annuity contract;**

(11) **A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as**

to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under sections 376.715 to 376.758, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, for purposes of determining the value that have been credited and are not subject to forfeiture under this subdivision, the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture;

(12) A policy or contract providing any hospital, medical, prescription drug or other health care benefit under Part C or Part D of Subchapter XVIII, Chapter 7 of Title 42 of the United States Code, Medicare Part C & D, or any regulations issued thereunder.

4. The benefits for which the association may become liable shall in no event exceed the lesser of:

(1) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2) With respect to any one life, regardless of the number of policies or contracts:

(a) Three hundred thousand dollars in life insurance death benefits, but not more than one hundred thousand dollars in net cash surrender and net cash withdrawal values for life insurance;

(b) One hundred thousand dollars in health insurance benefits, including any net cash surrender and net cash withdrawal values;

(c) One hundred thousand dollars in the present value of annuity benefits, including net cash surrender and net cash withdrawal values. Provided, however, that in no event shall the association be liable to expend more than three hundred thousand dollars in the aggregate with respect to any one life under paragraphs (a), (b), and (c) of this subdivision.

5. The limitations set forth in subsection 4 of this section are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which such benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under sections 376.715 to 376.758 may be met by the use of assets attributable to covered policies or reimbursed to the association under its subrogation and assignment rights.

376.718. DEFINITIONS. — As used in sections 376.715 to 376.758, the following terms shall mean:

(1) "Account", any of the [four] accounts created under section 376.720;

(2) ["Annuity or annuity contract", any annuity contract or group annuity certificate which is issued to and owned by an individual. This definition of "annuity or annuity contract" does not include any form of unallocated annuity contract;

(3)] "Association", the Missouri life and health insurance guaranty association created under section 376.720;

(3) "Benefit plan", a specific employee, union, or association of natural persons benefit plan;

(4) "Contractual obligation", any obligation under a policy or contract or certificate under a group policy or contract, or portion thereof for which coverage is provided under the provisions of section 376.717;

(5) "Covered policy", any policy or contract [within the scope of sections 376.715 to 376.758] **or portion of a policy or contract for which coverage is provided** under the provisions of section 376.717;

(6) "Director", the director of the department of insurance, financial institutions and professional registration of this state;

(7) "Extra-contractual claims", includes but is not limited to claims relating to bad faith in the payment of claims, punitive or exemplary damages, or attorneys fees and costs;

(8) "Impaired insurer", a member insurer which, after August 13, 1988, is not an insolvent insurer, and is [deemed by the director to be potentially unable to fulfill its contractual obligations, or is] placed under an order of rehabilitation or conservation by a court of competent jurisdiction;

[(8)] (9) "Insolvent insurer", a member insurer which, after August 13, 1988, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency;

[(9)] (10) "Member insurer", any insurer or health services corporation licensed or which holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided under section 376.717, and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed or voluntarily withdrawn, but does not include:

(a) A health maintenance organization;

(b) A fraternal benefit society;

(c) A mandatory state pooling plan;

(d) A mutual assessment company or any entity that operates on an assessment basis;

(e) An insurance exchange; [or]

(f) **An organization that issues qualified charitable gift annuities, as defined in section 352.500, and does not hold a certificate or license to transact insurance business; or**

(g) Any entity similar to any of the entities listed in paragraphs (a) to [(e)] (f) of this subdivision;

[(10)] (11) "Moody's Corporate Bond Yield Average", the monthly average corporates as published by Moody's Investors Service, Inc., or any successor thereto;

(12) **"Owner", "policy owner", or "contract owner", the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the insurer. Owner, contract owner, and policy owner shall not include persons with a mere beneficial interest in a policy or contract;**

[(11)] (13) "Person", any individual, corporation, partnership, association or voluntary organization;

[(12)] (14) "Premiums", amounts received on covered policies or contracts, less premiums, considerations and deposits returned thereon, and less dividends and experience credits thereon. The term does not include any amounts received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under subsection 3 of section 376.717, except that assessable premium shall not be reduced on account of subdivision (3) of subsection 3 of section 376.717 relating to interest limitations and subdivision (2) of subsection 4 of section 376.717 relating to limitations with respect to any one life, **any one participant**, and any one contract holder. **Premiums shall not include:**

(a) **Premiums on an unallocated annuity contract; or**

(b) **With respect to multiple nongroup policies of life insurance owned by one owner, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of five million dollars with respect to such policies or contracts, regardless of the number of policies or contracts held by the owner;**

(15) **"Principal place of business", for a person other than a natural person, the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise that function, determined by the association in its reasonable judgment by considering the following factors:**

(a) **The state in which the primary executive and administrative headquarters of the entity is located;**

(b) The state in which the principal office of the chief executive officer of the entity is located;

(c) The state in which the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;

(d) The state in which the executive or management committee of the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings; and

(e) The state from which the management of the overall operations of the entity is directed;

(16) "Receivership court", the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the insurer;

[(13)] (17) "Resident", any person who resides in this state [at the time a member insurer is determined to be an impaired or insolvent insurer] **on the date of entry of a court order that determines a member insurer to be an impaired insurer or a court order that determines a member insurer to be an insolvent insurer, whichever first occurs**, and to whom a contractual obligation is owed. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business. **Citizens of the United States that are either residents of foreign countries or residents of the United States possessions, territories, or protectorates that do not have an association similar to the association created under sections 376.715 to 376.758 shall be deemed residents of the state of domicile of the insurer that issued the policies or contracts;**

(18) "Structure settlement annuity", an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant;

(19) "State", a state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate;

[(14)] (20) "Supplemental contract", any **written** agreement entered into for the distribution of **proceeds under a life, health, or annuity policy or contract** [proceeds];

[(15)] (21) "Unallocated annuity contract", any annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity **benefits** guaranteed to an individual by an insurer under such contract or certificate.

376.724. IMPAIRED INSURERS, ASSOCIATION'S OPTIONS, DUTIES — INSOLVENT INSURERS, ASSOCIATION'S OPTIONS, DUTIES — ALTERNATIVE POLICIES, REQUIREMENTS. —

1. If a member insurer is an impaired [domestic] insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer, that are approved by the director[, and that are, except in cases of court ordered conservation or rehabilitation, also approved by the impaired insurer]:

(1) Guarantee, assume or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer; **or**

(2) Provide such moneys, pledges, notes, **loans**, guarantees, or other means as are proper to effectuate subdivision (1) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under subdivision (1) of this subsection]; or

(3) Loan money to the impaired insurer].

2. [If a member insurer is an impaired insurer, whether domestic, foreign or alien and the insurer is not paying claims in a timely fashion, then subject to the preconditions specified in subsection 3 of this section, the association shall, in its discretion, either:

(1) Take any of the actions specified in subsection 1 of this section, subject to the conditions therein; or

(2) Provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for: health claims; periodic annuity benefit payments; death benefits; supplemental benefits; and cash withdrawals for policy or contract owners who petition therefor under claims

of emergency or hardship in accordance with standards proposed by the association and approved by the director.

3. The association shall be subject to the requirements of subsection 2 of this section only if:

(1) The laws of the impaired insurer's state of domicile provide that until all payments of or on account of the impaired insurer's contractual obligations by all guaranty associations, along with all expenses thereof and interest on all such payments and expenses, shall have been repaid to the guaranty associations or a plan of repayment by the impaired insurer shall have been approved by the guaranty associations:

- (a) The delinquency proceedings shall not be dismissed;
- (b) Neither the impaired insurer nor its assets shall be returned to the control of its shareholders or private management; and
- (c) It shall not be permitted to solicit or accept new business or have any suspended or revoked license restored; and

(2) (a) If the impaired insurer is a domestic insurer, it has been placed under an order of rehabilitation by a court of competent jurisdiction in this state; or

- (b) If the impaired insurer is a foreign or alien insurer:
 - a. It has been prohibited from soliciting or accepting new business in this state;
 - b. Its certificate of authority has been suspended or revoked in this state; and
 - c. A petition for rehabilitation or liquidation has been filed in a court of competent jurisdiction in its state of domicile by the commissioner of that state.

4. (1) If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(1) (a) **a.** Guarantee, assume or reinsure, or cause to be guaranteed, assumed or reinsured, the policies or contracts of the insolvent insurer; or

[(b)] **b.** Assure payment of the contractual obligations of the insolvent insurer; and

[(c)] **(b)** Provide such moneys, pledges, **loans, notes**, guarantees, or other means as are reasonably necessary to discharge such duties; or

(2) [With respect only to life and health policies,] Provide benefits and coverages in accordance with [subsection 5 of this section.

5. When proceeding under subsection 2 or 4 of this section, the association shall,] **the following provisions:**

(a) With respect to [only] life and health insurance policies]:

(1) **and annuities**, assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies of the insolvent insurer, for claims incurred:

[(a)] **a.** With respect to group policies **and contracts**, not later than the earlier of the next renewal date under such policies or contracts or forty-five days, but in no event less than thirty days, after the date on which the association becomes obligated with respect to such policies **and contracts**;

[(b)] **b.** With respect to individual policies, **contracts, and annuities**, not later than the earlier of the next renewal date, if any, under such policies **or contracts** or one year, but in no event less than thirty days, from the date on which the association becomes obligated with respect to such policies **and contracts**;

[(2)] **(b)** Make diligent efforts to provide all known insureds **or annuitants for individual policies and contracts**, or group policyholders with respect to group policies **or contracts**, thirty days notice of the termination, **under paragraph (a) of this subdivision**, of the benefits provided; [and]

[(3)] **(c)** With respect to individual policies, make available to each known insured, **annuitant**, or owner if other than the insured **or annuitant**, and with respect to an individual formerly insured **or formerly an annuitant** under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in

accordance with the provisions of [subsection 6 of this section] **paragraph (d) of this subdivision**, if the insureds **or annuitants** had a right under law or the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class[.];

[6. (1)] **(d) a.** In providing the substitute coverage required under [subdivision (3) of subsection 5 of this section] **paragraph (c) of this subdivision**, the association may offer either to reissue the terminated coverage or to issue an alternative policy.

[2)] **b.** Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

[3)] **c.** The association may reinsure any alternative or reissued policy[.];

[7. (1)] **(e) a.** Alternative policies adopted by the association shall be subject to the approval of the director. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

[2)] **b.** Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

[3)] **c.** Any alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association;

(f) In carrying out its duties in connection with guaranteeing, assuming, or reinsuring policies or contracts under this subsection, the association may, subject to approval of the receivership court, issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

a. In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for a fixed interest rate, payment of dividends with minimum guarantees, or a different method for calculating interest or changes in value;

b. There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract; and

c. The alternative policy or contract is substantially similar to the replaced policy or contract in all other terms.

376.725. TERMINATED COVERAGE, REISSUANCE OF, PREMIUM SET, HOW — OBLIGATION TO CEASE, DATE — INTEREST RATE, GUARANTEED MINIMUM. — 1. If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk of the insured, subject to approval of the director or by a court of competent jurisdiction.

2. The association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date the coverage or policy is replaced by another similar policy by the policy owner, the insured, or the association.

3. When proceeding under subdivision (2) of subsection 2 of section 376.724 with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with subdivision (3) of subsection 3 of section 376.717.

376.732. DIRECTOR TO HAVE ASSOCIATION'S POWERS AND DUTIES, WHEN — ASSOCIATION MAY APPEAR IN COURT, WHEN. — 1. If the association fails to act within a reasonable period of time when authorized to do so, the director shall have the powers and duties of the association under sections 376.715 to 376.758 with respect to [impaired or] **the** insolvent insurers.

2. The association may render assistance and advice to the director, upon his request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

3. The association shall have standing to appear **or intervene** before any court **or agency** in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under sections 376.715 to 376.758, **or with jurisdiction over any person or property against which the association may have rights through subrogation or otherwise.** Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, modifying or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association shall have the right to appear or intervene before a court **or agency** in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over [a third party] **any person or property** against whom the association may have rights through subrogation [of the insurer's policyholders] **or otherwise.**

376.733. ASSIGNMENT OF RIGHTS TO ASSOCIATION BY PERSONS RECEIVING BENEFITS, WHEN — SUBROGATION RIGHTS. — 1. Any person receiving benefits under sections 376.715 to 376.758 shall be deemed to have assigned the rights under, and any causes of action **against any person for losses arising under, resulting from, or otherwise** relating to, the covered policy or contract to the association to the extent of the benefits received because of the provisions of sections 376.715 to 376.758, whether the benefits are payments of or on account of contractual obligations, continuation of coverage or provision of substitute or alternative coverages. The association may require an assignment to it of such rights and cause of action by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any right or benefits conferred by sections 376.715 to 376.758 upon such person.

2. The subrogation rights of the association under this section have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under sections 376.715 to 376.758.

3. In addition to subsections 1 and 2 of this section, the association shall have all common law rights of subrogation and any other equitable or legal remedy which would have been available to the impaired or insolvent insurer or [holder] **owner, beneficiary, or payee** of a policy or contract with respect to such policy or contracts, **including, without limitation in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received under sections 376.715 to 376.758, against a person, originally or by succession, responsible for the losses arising from the personal injury relating to the annuity or payment thereof, excepting any such person responsible solely by reason of serving as an assignee in respect of a qualified assignment under Section 130 of the Internal Revenue Code of 1986, as amended.**

376.734. ADDITIONAL POWERS OF ASSOCIATION. — 1. In addition to any other rights and powers under sections 376.715 to 376.758, the association may:

(1) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of sections 376.715 to 376.758;

(2) Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under subsections 1 and 2 of section 376.735 **and to settle claims or potential claims against it;**

(3) Borrow money to effect the purposes of sections 376.715 to 376.758. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(4) Employ or retain such persons as are necessary to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under sections 376.715 to 376.758;

(5) Take such legal action as may be necessary to avoid **or recover** payment of improper claims;

(6) Exercise, for the purposes of sections 376.715 to 376.758 and to the extent approved by the director, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under sections 376.715 to 376.758;

(7) **Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under sections 376.715 to 376.758 with respect to the person, and the person shall promptly comply with the request;**

(8) **Take other necessary or appropriate action to discharge its duties and obligations or to exercise its powers under sections 376.715 to 376.758; and**

(9) **With respect to covered policies for which the association becomes obligated after an entry of an order of liquidation or rehabilitation, elect to succeed to the rights of the insolvent insurer arising after the order of liquidation or rehabilitation under any contract of reinsurance to which the insolvent insurer was a party, to the extent that such contract provides coverage for losses occurring after the date of the order of liquidation or rehabilitation. As a condition to making this election, the association shall pay all unpaid premiums due under the contract for coverage relating to periods before and after the date of the order of liquidation or rehabilitation.**

2. The board of directors of the association may exercise reasonable business judgment to determine the means by which the association is to provide the benefits of sections 376.715 to 376.758 in an economical and efficient manner.

3. Where the association has arranged for or offered to provide the benefits of sections 376.715 to 376.758 to a covered person under a plan or arrangement that fulfills the association's obligations under sections 376.715 to 376.758, the person shall not be entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

[2.] 4. The association may join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

[3. Whenever it is necessary for the association to retain the services of legal counsel, the association shall retain persons licensed to practice law in this state, and whose principal place of business is in this state or who are employed by or are partners of a professional corporation, corporation, copartnership or association having its principal place of business in this state; provided however, that if, after a good faith search, such persons cannot be found, the association may retain the legal services of such other persons as it chooses.]

376.735. ASSESSMENTS AGAINST MEMBERS, WHEN DUE, CLASSES — AMOUNTS, HOW DETERMINED. — 1. For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments

shall be due not less than thirty days after prior written notice to the member insurers and shall accrue interest at ten percent per annum on and after the due date.

2. There shall be two assessments, as follows:

(1) Class A assessments [shall] **may** be made for the purpose of meeting administrative and legal costs and other expenses [and examinations conducted under the authority of subsections 4 and 5 of section 376.742]. Class A assessments may be made whether or not related to a particular impaired or insolvent insurer;

(2) Class B assessments [shall] **may** be made to the extent necessary to carry out the powers and duties of the association under [section 376.724] **sections 376.715 to 376.758** with regard to an impaired or an insolvent insurer.

3. The amount of any class A assessment shall be determined by the board and may be made on a pro rata or nonpro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. A nonpro rata assessment shall not exceed one hundred fifty dollars per member insurer in any one calendar year. The amount of any class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

4. Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer [or] **on** policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in this state for such calendar years by all assessed member insurers.

5. Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of sections 376.715 to 376.758. Classification of assessments under [subsections 1 and] **subdivisions (1) and (2) of subsection 2** of this section and computation of assessments under this [subsection] **section** shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. In no case shall a member insurer be liable under class A or class B for assessments in any account enumerated in section 376.720, for which such insurer is not licensed by the department of insurance, financial institutions and professional registration to transact business.

376.737. DEFERMENT OF ASSESSMENT, HOW, WHEN — MAXIMUM ASSESSMENT — REFUND OF, WHEN — MEMBERS MAY INCREASE PREMIUMS TO COVER ASSESSMENTS. — 1. The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. **Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred under a repayment plan approved by the association.**

2. **(1) Subject to the provisions of subdivision (2) of this subsection,** the total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of such insurer's average **annual** premiums received in this state on the policies and contracts covered by the account during the three calendar years preceding the year in which the insurer became an impaired or insolvent insurer. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in [either] **the** account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by sections 376.715 to 376.758.

(2) If two or more assessments are made in one calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation referenced in subdivision (1) of this subsection shall be equal and limited to the higher of the three-year average annual premiums for the applicable account as calculated under this section.

3. The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

4. The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses.

5. It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance within the scope of sections 376.715 to 376.758, to consider the amount reasonably necessary to meet its assessment obligations under the provisions of sections 376.715 to 376.758.

376.738. CERTIFICATE OF CONTRIBUTION, WHEN ISSUED. — The association shall issue to each insurer paying an assessment under the provisions of sections 376.715 to 376.758, other than class A assessment, a certificate of contribution, in a form prescribed by the director, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution [issued before September 1, 1991,] may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the director may approve[, provided that a certificate issued before September 1, 1991, shall not be shown as an admitted asset for a longer period of time or greater amount than that described in subdivisions (1) to (4) of subsection 2 of section 375.774, RSMo].

376.740. PLAN OF OPERATION, REQUIRED, APPROVAL OF DIRECTOR — PROVISIONS OF PLAN. — 1. The association shall submit a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association to the director. The plan of operation and any amendments thereto shall become effective upon the director's written approval or unless he has not disapproved it within thirty days.

2. If the association fails to submit a suitable plan of operation within one hundred twenty days following the effective date, August 13, 1988, of sections 376.715 to 376.758 or if at any time thereafter the association fails to submit suitable amendments to the plan, the director shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of sections 376.715 to 376.758. Such rules shall continue in force until modified by the director or superseded by a plan submitted by the association and approved by him.

3. All member insurers shall comply with the plan of operation.

4. The plan of operation shall, in addition to requirements enumerated in sections 376.715 to 376.758:

- (1) Establish procedures for handling the assets of the association;
- (2) Establish the amount and method of reimbursing members of the board of directors;
- (3) Establish regular places and times for meetings including telephone conference calls of the board of directors;
- (4) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(5) Establish the procedures whereby selections for the board of directors will be made and submitted to the director;

(6) Establish any additional procedures for assessments which may be necessary;

(7) Contain additional provisions necessary or proper for the execution of the powers and duties of the association;

(8) Establish procedures whereby a director may be removed for cause, including in the case where a member insurer director becomes an impaired or insolvent insurer;

(9) Establish procedures for the initial handling of any appeals against the actions of the board, subject to the rights of appeal in subsection 3 of section 376.742.

5. The plan of operation may provide that any or all powers and duties of the association except those pursuant to provisions of [subsection 3 of section 376.733 and subsections 1 and 2 of] **subdivision (3) of subsection 1 of section 376.734 and section 376.735** are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the director, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by sections 376.715 to 376.758.

376.743. BOARD OF DIRECTORS, POWERS. — 1. The board of directors may, upon majority vote, make reports and recommendations to the director upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall not be considered public documents.

2. The board of directors shall, upon majority vote, notify the director of any information indicating any member insurer may be an impaired or insolvent insurer.

[3. The board of directors may, upon majority vote, request that the director order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within thirty days of the receipt of such request, he shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the director designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the director from complying with subsections 1 to 4 of section 376.742. The director shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the director but it shall not be open to public inspection prior to the release of the examination report to the public.

4.] The board of directors may, upon majority vote, make recommendations to the director for the detection and prevention of insurer insolvencies.

[5. The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the director containing such information as it may have in its possession bearing on the history and causes of such insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes of insolvency of a particular insurer, and may adopt by reference any report prepared by such other associations.]

376.758. LAW INAPPLICABLE TO INSOLVENT INSURERS ON EFFECTIVE DATE OF LAW. — 1. Sections 376.715 to 376.758 shall not apply to any insurer which is insolvent or unable to fulfill its contractual obligations on August 13, 1988.

2. Sections 376.715 to 376.758 shall be liberally construed to effect the purpose under subsection 2 of section 376.715 which shall constitute an aid and guide to interpretation.

3. The amendments to sections 376.715 to 376.758 which become effective on August 28, 2010, shall not apply to any member insurer that is an impaired or insolvent insurer prior to August 28, 2010.

376.816. ADOPTED CHILDREN TO BE PROVIDED HEALTH CARE COVERAGE ON THE SAME BASIS AS OTHER DEPENDENTS — EFFECTIVE FROM DATE OF BIRTH OR ON PLACEMENT — PLACEMENT DEFINED. — 1. No [individual or group insurance policy providing coverage on an expense-incurred basis, no individual or group service or indemnity contract issued by a not-for-profit health services corporation, no health maintenance organization nor any self-insured group health benefit plan of any type or description shall be offered, issued or renewed in this state on or after July 10, 1991, unless the policy, plan or contract] **health carrier or health benefit plan that offers or issues health benefit plans, other than Medicaid health benefit plans, shall deliver, issue for delivery, continue, or renew a health benefit plan to a Missouri resident on or after January 1, 2011, unless the health benefit plan** covers adopted children of the insured, subscriber or enrollee on the same basis as other dependents.

2. The coverage required by subsection 1 of this section is effective:

(1) From the date of birth if a petition for adoption is filed within thirty days of the birth of such child; or

(2) From the date of placement for the purpose of adoption if a petition for adoption is filed within thirty days of placement of such child. Such coverage shall continue unless the placement is disrupted prior to legal adoption and the child is removed from placement. Coverage shall include the necessary care and treatment of medical conditions existing prior to the date of placement.

3. As used in this section, **the following terms shall mean:**

(1) **"Health benefit plan", the same meaning as such term is defined in section 376.1350;**

(2) **"Health carrier", the same meaning as such term is defined in section 376.1350;**

(3) **"Placement" [means], in the physical custody of the adoptive parent.**

376.882. CANCELLATION OF POLICY, REFUND REQUIRED — NOTIFICATION. — 1. **If a Medicare supplement policy issued, delivered, or renewed in this state on or after January 1, 2011, is cancelled for any reason, the insurer shall refund the unearned portion of any premium paid beyond the month in which the cancellation is effective. Any refund shall be returned to the policyholder within twenty days from the date the insurer receives notice of the cancellation.**

2. **The policyholder may notify the insurer of cancellation of such Medicare supplement policy by sending written, or electronic notification.**

376.1109. POLICIES, CONTENT REQUIREMENTS, PROVISIONS PROHIBITED — RULES AUTHORIZED — CANCELLATION, REFUND REQUIRED. — 1. The director may adopt regulations that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms. Regulations adopted pursuant to sections 376.1100 to 376.1130 shall be in accordance with the provisions of chapter 536, RSMo.

2. No long-term care insurance policy may:

(1) Be canceled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(3) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than for lower levels of care.

3. No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.1100:

(1) Shall use a definition of preexisting condition which is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services, within six months preceding the effective date of coverage of an insured person;

(2) May exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

4. The director may extend the limitation periods set forth in subdivisions (1) and (2) of subsection 3 of this section as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

5. The definition of preexisting condition provided in subsection 3 of this section does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subdivision (2) of subsection 3 of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subdivision (2) of subsection 3 of this section.

6. No long-term care insurance policy may be delivered or issued for delivery in this state if such policy:

(1) Conditions eligibility for any benefits on a prior hospitalization requirement; or

(2) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

(3) Conditions eligibility for any benefits other than waiver of premium, post-confinement, post-acute care or recuperative benefits on a prior institutionalization requirement.

7. A long-term care insurance policy containing post-confinement, post-acute care or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.

8. A long-term care insurance policy or rider which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days.

9. No long-term care insurance policy or rider which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

10. The director may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

11. Long-term care insurance applicants shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page

or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.1100, the applicant is not satisfied for any reason. This subsection shall also apply to denials of applications and any refund must be made within thirty days of the return or denial.

12. (1) If a long-term care insurance policy issued, delivered, or renewed in this state on or after January 1, 2011, is cancelled for any reason, the insurer shall refund the unearned portion of any premium paid beyond the month in which the cancellation is effective. Any refund shall be returned to the policyholder within twenty days from the date the insurer receives notice of the cancellation. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall be entitled to a refund of the unearned premium if the policy is cancelled for any reason.

(2) The policyholder may notify the insurer of cancellation of such long-term care insurance policy at anytime by sending written, or electronic notification.

376.1450. ENROLLEE'S RIGHT TO RECEIVE DOCUMENTS AND MATERIALS IN PRINTED OR ELECTRONIC FORM, WHEN. — An enrollee, as defined in section 376.1350, may [waive his or her right to] receive documents and materials from a managed care entity in printed **or electronic** form so long as such documents and materials are readily accessible [electronically through the entity's Internet site. An enrollee may revoke such waiver at any time by notifying the managed care entity by phone or in writing or annually. Any enrollee who does not execute such a waiver and prospective enrollees shall have documents and materials from the managed care entity provided] in printed form **upon request. A request by the enrollee may include written, oral, or electronic means. Such requested printed form shall be provided to the enrollee within fifteen business days.** For purposes of this section, "managed care entity" includes, but is not limited to, a health maintenance organization, preferred provider organization, point of service organization and any other managed health care delivery entity of any type or description.

SECTION 1. STATE CHILDREN'S HEALTH INSURANCE INFORMATION TO BE PROVIDED BY CHILD CARE PROVIDERS AND PUBLIC SCHOOLS — RULEMAKING AUTHORITY — REPORT.

— 1. For each school year beginning July 1, 2010, the department of social services shall provide all state licensed child-care providers who receive state or federal funds under section 210.027 and all public school districts in this state with written information regarding eligibility criteria and application procedures for the state children's health insurance program (SCHIP) authorized in sections 208.631 to 208.657, to be distributed by the child-care providers or school districts to parents and guardians at the time of enrollment of their children in child-care or school, as applicable.

2. The department of elementary and secondary education shall add an attachment to the application for the free and reduced lunch program for a parent or guardian to check a box indicating yes or no whether each child in the family has health care insurance. If any such child does not have health care insurance, and the parent or guardian's household income does not exceed the highest income level under 42 U.S.C. Section 1397CC, as amended, the school district shall provide a notice to such parent or guardian that the uninsured child may qualify for health insurance under SCHIP.

3. The notice described in subsection 2 shall be developed by the department of social services and shall include information on enrolling the child in the program. No notices relating to the state children's health insurance program shall be provided to a parent or guardian under this section other than the notices developed by the department of social services under this section.

4. Notwithstanding any other provision of law to the contrary, no penalty shall be assessed upon any parent or guardian who fails to provide or provides any inaccurate information required under this section.

5. The department of elementary and secondary education and the department of social services may adopt rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

6. The department of elementary and secondary education, in collaboration with the department of social services, shall report annually to the governor and the house budget committee chair and the senate appropriations committee chair on the following:

- (1) The number of families in each district receiving free lunch and reduced lunches;
- (2) The number of families who indicate the absence of health care insurance on the application for free and reduced lunches;
- (3) The number of families who received information on the state children's health insurance program under this section; and
- (4) The number of families who received the information in subdivision (3) of this subsection and applied to the state children's health insurance program.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the citizens of this state, the repeal and reenactment of section 452.430 and the enactment of section 1 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 452.430 and the enactment of section 1 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 13, 2010

SB 586 [HCS SS SCS SBs 586 & 617]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Regulates sexually oriented businesses

AN ACT to amend chapter 573, RSMo, by adding thereto six new sections relating to sexually oriented businesses, with penalty provisions and a severability clause.

SECTION

- A. Enacting clause.
 - 573.525. Purpose — findings.
 - 573.528. Definitions.
 - 573.531. Establishment of business, prohibited where — nudity in establishment prohibited — display of sexual activities, requirements — state requirements — hours of operation — minors and alcohol prohibited.
 - 573.534. Strict liability not imposed — mental state required for violation — act by employee not imputed to the business, when.
 - 573.537. Violations, penalty — public nuisance for repeated violations — state remedies permitted.
-

- 573.540. No state preemption on regulation — consistency with state law required for local law.
B. Severability clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 573, RSMo, is amended by adding thereto six new sections, to be known as sections 573.525, 573.528, 573.531, 573.534, 573.537, and 573.540, to read as follows:

573.525. PURPOSE — FINDINGS. — 1. It is the purpose of sections 573.525 to 573.537 to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of this state, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the state. The provisions of sections 573.525 to 573.537 have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of sections 573.525 to 573.537 to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of sections 573.525 to 573.537 to condone or legitimize the distribution of obscene material.

2. The general assembly finds that:

(1) Sexually oriented businesses, as a category of commercial enterprises, are associated with a wide variety of adverse secondary effects, including but not limited to personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation;

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area;

(3) Each of the foregoing negative secondary effects constitutes a harm which the state has a substantial interest in preventing or abating, or both. Such substantial government interest in preventing secondary effects, which is the state's rationale for sections 573.525 to 573.537, exists independent of any comparative analysis between sexually oriented and nonsexually oriented businesses. Additionally, the state's interest in regulating sexually oriented businesses extends to preventing future secondary effects of current or future sexually oriented businesses that may locate in the state.

573.528. DEFINITIONS. — For purposes of sections 573.525 to 573.537, the following terms shall mean:

(1) "Adult bookstore" or "adult video store", a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A "principal business activity" exists where the commercial establishment:

(a) Has a substantial portion of its displayed merchandise which consists of such items; or

(b) Has a substantial portion of the wholesale value of its displayed merchandise which consists of such items; or

(c) Has a substantial portion of the retail value of its displayed merchandise which consists of such items; or

(d) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of such items; or

(e) Maintains a substantial section of its interior business space for the sale or rental of such items; or

(f) Maintains an adult arcade. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas;

(2) "Adult cabaret", a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude;

(3) "Adult motion picture theater", a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration;

(4) "Characterized by", describing the essential character or dominant theme of an item;

(5) "Employ", "employee", or "employment", describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises;

(6) "Establish" or "establishment", any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business;

(7) "Influential interest", any of the following:

(a) The actual power to operate the sexually oriented business or control the operation, management, or policies of the sexually oriented business or legal entity which operates the sexually oriented business;

(b) Ownership of a financial interest of thirty percent or more of a business or of any class of voting securities of a business; or

(c) Holding an office, such as president, vice president, secretary, treasurer, managing member, or managing director, in a legal entity which operates the sexually oriented business;

(8) "Nudity" or "state of nudity", the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola;

(9) "Operator", any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business

premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not such person is an owner, part owner, or licensee of the business;

(10) "Premises", the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages or both;

(11) "Regularly", the consistent and repeated doing of the act so described;

(12) "Semi-nude" or "state of semi-nudity", the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part;

(13) "Semi-nude model studio", a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Such definition shall not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

b. Where, in order to participate in a class, a student must enroll at least three days in advance of the class;

(14) "Sexual encounter center", a business or commercial enterprise that, as one of its principal purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between two or more persons when one or more of the persons is semi-nude;

(15) "Sexually oriented business", an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, or a sexual encounter center;

(16) "Specified anatomical areas":

(a) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered;

(17) "Specified criminal act", any of the following specified offenses for which less than eight years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:

(a) Rape and sexual assault offenses;

(b) Sexual offenses involving minors;

(c) Offenses involving prostitution;

(d) Obscenity offenses;

(e) Offenses involving money laundering;

(f) Offenses involving tax evasion;

(g) Any attempt, solicitation, or conspiracy to commit one of the offenses listed in paragraphs (a) to (f) of this subdivision; or

- (h) Any offense committed in another jurisdiction which if committed in this state would have constituted an offense listed in paragraphs (a) to (g) of this subdivision;
- (18) "Specified sexual activity", any of the following:
 - (a) Intercourse, oral copulation, masturbation, or sodomy; or
 - (b) Excretory functions as a part of or in connection with any of the activities described in paragraph (a) of this subdivision;
- (19) "Substantial", at least thirty percent of the item or items so modified;
- (20) "Viewing room", the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette, digital video disc, or other video reproduction.

573.531. ESTABLISHMENT OF BUSINESS, PROHIBITED WHERE — NUDITY IN ESTABLISHMENT PROHIBITED — DISPLAY OF SEXUAL ACTIVITIES, REQUIREMENTS — STATE REQUIREMENTS — HOURS OF OPERATION — MINORS AND ALCOHOL PROHIBITED. — 1. No person shall establish a sexually oriented business within one thousand feet of any preexisting primary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business. This subsection shall not apply to any sexually oriented business lawfully established prior to the effective date of sections 573.525 to 573.537. For purposes of this subsection, measurements shall be made in a straight line, without regard to intervening structures or objects, from the closest portion of the parcel containing the sexually oriented business to the closest portion of the parcel containing the preexisting primary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business.

2. No person shall establish a sexually oriented business if a person with an influential interest in the sexually oriented business has been convicted of or pled guilty or nolo contendere to a specified criminal act.

3. No person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.

4. No employee shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the employee, while semi-nude, shall be and remain on a fixed stage at least six feet from all patrons and at least eighteen inches from the floor in a room of at least six hundred square feet.

5. No employee, who appears in a semi-nude condition in a sexually oriented business, shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

6. A sexually oriented business, which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction, characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose;

(2) An operator's station shall not exceed thirty-two square feet of floor area;

(3) If the premises has two or more operator's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations;

(4) The view required under this subsection shall be by direct line of sight from the operator's station;

(5) It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by such operator station; and

(6) It shall be the duty of the operator and of any employees present on the premises to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.

7. Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of sections 573.525 to 573.537 shall be given one hundred eighty days after the effective date of sections 573.525 to 573.537 to comply with the stage and building requirements of sections 573.525 to 573.537. During such one-hundred-eighty-day period, any employee who appears within view of any patron in a semi-nude condition shall remain, while semi-nude, at least six feet from all patrons.

8. No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 a.m. on any day.

9. No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

10. No person shall knowingly allow a person under the age of eighteen years on the premises of a sexually oriented business.

573.534. STRICT LIABILITY NOT IMPOSED — MENTAL STATE REQUIRED FOR VIOLATION — ACT BY EMPLOYEE NOT IMPUTED TO THE BUSINESS, WHEN. — Sections 573.525 to 573.537 do not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of sections 573.525 to 573.537. Notwithstanding any other provision of law to the contrary, for purposes of sections 573.525 to 573.537, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of sections 573.525 to 573.537 only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

573.537. VIOLATIONS, PENALTY — PUBLIC NUISANCE FOR REPEATED VIOLATIONS — STATE REMEDIES PERMITTED. — 1. Any person, business, or entity violating or refusing to comply with any provision of sections 573.525 to 573.537 shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by imposition of a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed ninety days, or both. Each day that a violation is permitted to exist or occur, and each separate occurrence shall constitute a separate offense.

2. Any premises, building, dwelling, or other structure in which a sexually oriented business is repeatedly operated or maintained in violation of sections 573.525 to 573.537 shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the state in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

3. Notwithstanding the provisions of this section, the state may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of sections 573.525 to 573.537.

573.540. NO STATE PREEMPTION ON REGULATION — CONSISTENCY WITH STATE LAW REQUIRED FOR LOCAL LAW. — 1. Nothing in sections 573.525 to 573.537 shall be construed

as preempting or preventing any political subdivision of this state from maintaining, enacting, or enforcing any local ordinance, rule, regulation, resolution, or similar law concerning the regulation of sexually oriented businesses or similar adult oriented businesses which is stricter than but not inconsistent with the provisions of sections 573.525 to 573.537.

2. Political subdivisions of this state are specifically authorized to maintain, enact, and enforce local ordinances, rules, regulations, resolutions, or other similar laws concerning the regulation of sexually oriented businesses or similar adult oriented businesses which are the same as or stricter than but not inconsistent with the provisions of sections 573.525 to 573.537.

SECTION B. SEVERABILITY CLAUSE. — If any provision of sections 573.525 to 573.540 of section A of this act or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

Approved June 25, 2010

SB 588 [SS SCS SB 588]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions of law requiring notices of projected tax liability

AN ACT to repeal sections 137.180 and 137.355, RSMo, and to enact in lieu thereof two new sections relating to projected property tax liability notices for certain counties.

SECTION

A. Enacting clause.

137.180. Valuation increased — assessor to notify owner — appeals to county board of equalization — notice to owners required, when, contents.

137.355. Notice of increased assessment of listed property — notice to owners, when, contents.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 137.180 and 137.355, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 137.180 and 137.355, to read as follows:

137.180. VALUATION INCREASED — ASSESSOR TO NOTIFY OWNER — APPEALS TO COUNTY BOARD OF EQUALIZATION — NOTICE TO OWNERS REQUIRED, WHEN, CONTENTS.

— 1. Whenever any assessor shall increase the valuation of any real property he shall forthwith notify the record owner of such increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of equalization whereat the landowner shall be entitled to be heard, and the notice to the landowner shall so state.

2. Effective January 1, 2009, for all counties with a charter form of government, **other than any county adopting a charter form of government after January 1, 2008**, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of such increase and, in a year of general reassessment, the county shall notify the record owner of the projected tax liability likely to result from such

an increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of equalization whereat the landowner shall be entitled to be heard, and the notice to the landowner shall so state. Notice of the projected tax liability from the county shall accompany the notice of increased valuation from the assessor.

3. For all calendar years prior to the first day of January of the year following receipt of software necessary for the implementation of the requirements provided under subsections 4 and 5 of this section from the state tax commission, for any county not subject to the provisions of subsection 2 of this section or subsection 2 of section 137.355, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of the previous assessed value and such increase either in person, or by mail directed to the last known address and include in such notice a statement indicating that the change in assessed value may impact the record owner's tax liability and provide all processes and deadlines for appealing determinations of the assessed value of such property. Such notice shall be provided in a font and format sufficient to alert a record owner of the potential impact upon tax liability and the appellate processes available.

4. Effective January [1, 2011,] first of the year following receipt of software necessary for the implementation of the requirements provided under this subsection and subsection 5 of this section from the state tax commission, for all counties not subject to the provisions of subsection 2 of this section or subsection 2 of section 137.355, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of such increase and, in a year of general reassessment, the county shall notify the record owner of the projected tax liability likely to result from such an increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of equalization whereat the landowner shall be entitled to be heard, and the notice to the landowner shall so state. Notice of the projected tax liability from the county shall accompany the notice of increased valuation from the assessor.

[4.] **5.** The notice of projected tax liability, required under subsections 2 and [3] **4** of this section, from the county shall include:

- (1) **The** record owner's name, address, and the parcel number of the property;
- (2) A list of all political subdivisions levying a tax upon the property of the record owner;
- (3) The projected tax rate for each political subdivision levying a tax upon the property of the record owner, and the purpose for each levy of such political subdivisions;
- (4) The previous year's tax rates for each individual tax levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (5) The tax rate ceiling for each levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (6) The contact information for each political subdivision levying a tax upon the property of the record owner;
- (7) A statement identifying any projected tax rates for political subdivisions levying a tax upon the property of the record owner, which were not calculated and provided by the political subdivision levying the tax; and
- (8) The total projected property tax liability of the taxpayer.

6. In addition to the requirements provided under subsections 1, 2, and 5 of this section, effective January 1, 2011, in any county with a charter form of government and with more than one million inhabitants, whenever any assessor shall notify a record owner of any change in assessed value, such assessor shall provide notice that information regarding the assessment method and computation of value for such property is available on the assessor's website and provide the exact website address at which such information may be accessed. Such notification shall provide the assessor's contact information to

enable taxpayers without internet access to request and receive information regarding the assessment method and computation of value for such property.

137.355. NOTICE OF INCREASED ASSESSMENT OF LISTED PROPERTY — NOTICE TO OWNERS, WHEN, CONTENTS. — 1. If an assessor increases the valuation of any tangible personal property as estimated in the itemized list furnished to the assessor, and if an assessor increases the valuation of any real property, he shall forthwith notify the record owner of the increase either in person or by mail directed to the last known address, and if the address of the owner is unknown notice shall be given by publication in two newspapers published in the county.

2. For all calendar years prior to the first day of January of the year following receipt of software necessary for the implementation of the requirements provided under subsections 3 and 4 of this section from the state tax commission, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of the previous assessed value and such increase either in person, or by mail directed to the last known address and include on the face of such notice, in no less than twelve point font, the following statement: **NOTICE TO TAXPAYER: IF YOUR ASSESSED VALUE HAS INCREASED, IT MAY INCREASE YOUR REAL PROPERTY TAXES WHICH ARE DUE DECEMBER THIRTY-FIRST. IF YOU DO NOT AGREE THAT THE VALUE OF YOUR PROPERTY HAS INCREASED, YOU MUST CHALLENGE THE VALUE ON OR BEFORE (INSERT DATE BY WHICH APPEAL MUST BE FILED) BY CONTACTING YOUR COUNTY ASSESSOR.**

3. Effective January [1, 2011,] first of the year following receipt of software necessary for the implementation of the requirements provided under this subsection and subsection 4 of this section from the state tax commission, if an assessor increases the valuation of any real property, the assessor, on or before June fifteenth, shall notify the record owner of the increase and, in a year of general reassessment, the county shall notify the record owner of the projected tax liability likely to result from such an increase either in person or by mail directed to the last known address, and, if the address of the owner is unknown, notice shall be given by publication in two newspapers published in the county. Notice of the projected tax liability from the county shall accompany the notice of increased valuation from the assessor.

[3.] 4. The notice of projected tax liability, required under subsection [2] 3 of this section, from the county shall include:

- (1) Record owner's name, address, and the parcel number of the property;
- (2) A list of all political subdivisions levying a tax upon the property of the record owner;
- (3) The projected tax rate for each political subdivision levying a tax upon the property of the record owner, and the purpose for each levy of such political subdivisions;
- (4) The previous year's tax rates for each individual tax levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (5) The tax rate ceiling for each levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (6) The contact information for each political subdivision levying a tax upon the property of the record owner;
- (7) A statement identifying any projected tax rates for political subdivisions levying a tax upon the property of the record owner, which were not calculated and provided by the political subdivision levying the tax; and
- (8) The total projected property tax liability of the taxpayer.

Approved July 8, 2010

SB 630 [SCS SB 630]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions pertaining to manufactured homes

AN ACT to repeal sections 137.115, 362.105, 365.020, 365.200, 369.229, 370.300, 400.9-303, 400.9-311, 408.015, 408.250, 441.005, 442.010, 513.010, 700.010, 700.100, 700.111, 700.320, 700.350, 700.360, 700.370, 700.375, 700.385, 700.525, 700.527, 700.529, 700.530, 700.531, 700.533, 700.535, 700.537, 700.539, and 700.630, RSMo, and to enact in lieu thereof twenty-nine new sections relating to manufactured homes, with penalty provisions and effective dates.

SECTION

- A. Enacting clause.
- 137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
- 362.105. Powers and authority of banks and trust companies.
- 365.020. Definitions.
- 365.200. Additional time sale contracts.
- 369.229. Approved transactions and loans.
- 370.300. Loans, interest rate — charges — refunds to members.
- 400.9-303. Law governing perfection and priority of security interests in goods covered by certificate of title.
- 400.9-311. Perfection of security interests in property subject to certain statutes, regulations, and treaties.
- 408.015. Definitions.
- 408.250. Definitions.
- 441.005. Definitions.
- 442.010. Definitions.
- 442.015. Conveyance or encumbrance of manufactured homes, requirements — affidavit of affixation — deemed real estate, when — detachment or severance from real estate, effect of.
- 513.010. Levy and real estate defined.
- 700.010. Definitions.
- 700.100. Refusal to renew, grounds, notification to applicant, contents — complaints may be considered.
- 700.111. Surrender of certificate of origin and certificate of title — confirmation of conversion, when — rulemaking authority
- 700.320. Certificate of title, application procedure, fees — payment of sales tax before issuance — purchase price, defined — certificates may be transferred, when, procedure — refusal to issue, when — affidavit of affixation, requirements — certificates, requirements.
- 700.350. Liens and encumbrances — valid, perfected, when, how — home subject to, when, how determined — security procedures — validity of prior transactions.
- 700.360. Creation of lien or encumbrance by owner, duties, failure to perform, penalty — subordinate lienholders, perfection procedure — new certificate issued, when — governing, law.
- 700.370. Satisfaction of lien or encumbrance, release of, procedure.
- 700.375. Provisions of sections 700.350 to 700.380 exclusive — exceptions.
- 700.385. Repossessed homes, certificate of title — application procedure, fee, form of — manufactured homes, notice — issued when — director of revenue, duties — rulemaking authority.
- 700.525. Manufactured home defined.
- 700.526. Abandonment deemed, when.
- 700.527. Abandonment of manufactured home or rental real property — owner of property may seek lien, when, procedure — director's duties.
- 700.528. Contest of lien, procedure.
- 700.529. Notice of lien — lien amount deemed unpaid rent — no certificate of title until all rent paid.
- 700.630. Survivorship interest in manufactured homes — issuance of certificates of ownership, requirements, restrictions.
- 700.530. Rights of secured parties.
- 700.531. Director to notify owner of record of manufactured home and any holder of security interest — notice content.
- 700.533. Owner of manufactured home or holder of security interest may claim title, requirements.
- 700.535. Owner of manufactured home may voluntarily relinquish claim or relinquish by failure to respond to notice — right to reclaim, requirement.
- 700.537. Lienholder may repossess abandoned home, requirement — notice form provided by director of revenue.

- 700.539. Certificate of title, application by lienholder may be made when, requirements, fee — director to issue, when.
B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 137.115, 362.105, 365.020, 365.200, 369.229, 370.300, 400.9-303, 400.9-311, 408.015, 408.250, 441.005, 442.010, 513.010, 700.010, 700.100, 700.111, 700.320, 700.350, 700.360, 700.370, 700.375, 700.385, 700.525, 700.527, 700.529, 700.530, 700.531, 700.533, 700.535, 700.537, 700.539, and 700.630, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 137.115, 362.105, 365.020, 365.200, 369.229, 370.300, 400.9-303, 400.9-311, 408.015, 408.250, 441.005, 442.010, 442.015, 513.010, 700.010, 700.100, 700.111, 700.320, 700.350, 700.360, 700.370, 700.375, 700.385, 700.525, 700.526, 700.527, 700.528, 700.529, and 700.630, to read as follows:

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The true value in money of any possessory interest in real property in subclass (3), where such real property is on or lies within the ultimate airport boundary as shown by a federal airport layout plan, as defined by 14 CFR 151.5, of a commercial airport having a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise applicable true value in money of any such possessory interest in real property, less the total dollar amount of costs paid by a party, other than the political subdivision, towards any new construction or improvements on such real property completed after January 1, 2008, and which are included in the above-mentioned possessory interest, regardless of the year in which such costs were incurred or whether such costs were considered in any prior year. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to

decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this subdivision, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percentages of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

(1) For real property in subclass (1), nineteen percent;

(2) For real property in subclass (2), twelve percent; and

(3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property

for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. **For purposes of this section**, a manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. **For purposes of this section**, a manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home [has been converted to] **is real [property in compliance with section 700.111, RSMo] estate as defined in subsection 7 of section 442.015** and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home [has been converted to] **is real [property in compliance with section 700.111, RSMo] estate as defined in subsection 7 of section 442.015**, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a drive-by inspection or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank, processor, or issuer for its service. A county or city collector may accept payment by electronic

transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt out of the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular session. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

16. The governing body of any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located in any county that has exercised its authority to opt out under subsection 15 of this section may levy separate and differing tax rates for real and personal property only if such city bills and collects its own property taxes or satisfies the entire cost of the billing and collection of such separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax rate ceiling.

362.105. POWERS AND AUTHORITY OF BANKS AND TRUST COMPANIES. — 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) Hold a noncontrolling equity interest in any business entity that conducts only activities that are financial in nature or incidental to financial activity or that is established pursuant to subdivision (16) of this subsection where the majority of the stock or other interest is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any foreign bank with a branch or branches in Missouri, or any combination of these financial institutions; provided that if the entity is defined pursuant to Missouri law as any type of financial institution subsidiary or other type of entity subject to special conditions or regulations, those conditions and regulations shall remain applicable, and provided that such business entity may be formed as any type of business entity, in which each investor's liability is limited to the investment in and loans to the business entity as otherwise provided by law;

(7) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

(8) Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

(9) Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

(10) Acquire or convey real property for the following purposes:

(a) Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business; and

(b) Real property purchased at sales under judgment, decrees or liens held by it;

(11) Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership,

association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408, RSMo, are not applicable;

(12) Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any customer services through any system of electronic funds transfer at places other than bank premises;

(13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (10) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

(14) Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409, RSMo, regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

(15) Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

(16) Offer through one or more subsidiaries any products and services which a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety and soundness considerations. This subdivision is enacted to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may:

(1) Purchase or lease, in an amount not exceeding its legal loan limit, real property and improvements thereto suitable for the convenient conduct of its functions. The bank may derive income from renting or leasing such real property or improvements or both. If the purchase or lease of such real property or improvements exceeds the legal loan limit or is from an officer, director, employee, affiliate, principal shareholder or a related interest of such person, prior approval shall be obtained from the director of finance; and

(2) Loan money on real estate **as defined in section 442.010**, and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depositary, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government to:

(a) State-chartered banks and trust companies which are necessary to enable such banks and trust companies to compete;

(b) State-chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches;

(c) Subsidiaries of state-chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State-chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105, RSMo, and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

6. A bank or trust company to which authority is granted by regulation in subsection 4 of this section, based on the population of the political subdivision, may continue to exercise such authority for up to five years after the appropriate decennial census indicates that the population of the town in which such bank or trust company is located has exceeded the limits provided for by regulation pursuant to subsection 4 of this section.

365.020. DEFINITIONS. — Unless otherwise clearly indicated by the context, the following words and phrases have the meanings indicated:

(1) "Cash sale price", the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle which is the subject matter of the retail installment contract, if the sale had been a sale for cash or at a cash price instead of a retail installment transaction at a time sale price. The cash sale price may include any taxes, registration, certificate of title, license and other fees and charges for accessories and their installment and for delivery, servicing, repairing or improving the motor vehicle;

(2) "Director", the office of the director of the division of finance;

(3) "Holder" of a retail installment contract, the retail seller of the motor vehicle under the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee;

(4) "Insurance company", any form of lawfully authorized insurer in this state;

(5) "Motor vehicle", any new or used automobile, mobile home, **manufactured home as defined in section 700.010, excluding a manufactured home with respect to which the requirements of subsections 1 to 3 of section 700.111, as applicable, have been satisfied**, motorcycle, all-terrain vehicle, motorized bicycle, moped, motortricycle, truck, trailer, semitrailer, truck tractor, or bus primarily designed or used to transport persons or property on a public highway, road or street;

(6) "Official fees", the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction;

(7) "Person", an individual, partnership, corporation, association, and any other group however organized;

(8) "Principal balance", the cash sale price of the motor vehicle which is the subject matter of the retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits, including any amounts paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien, or lease interest on property traded in and official fees, minus the amount of the buyer's down payment in money or goods. Notwithstanding any law to the contrary, any amount actually paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien or lease on property traded in which was included in a contract prior to August 28, 1999, is valid and legal;

(9) "Retail buyer" or "buyer", a person who buys a motor vehicle from a retail seller in a retail installment transaction under a retail installment contract;

(10) "Retail installment contract" or "contract", an agreement evidencing a retail installment transaction entered into in this state pursuant to which the title to or a lien upon the motor vehicle, which is the subject matter of the retail installment transaction is retained or taken by the seller from the buyer as security for the buyer's obligation. The term includes a chattel mortgage or a conditional sales contract;

(11) "Retail installment transaction", a sale of a motor vehicle by a retail seller to a retail buyer on time under a retail installment contract for a time sale price payable in one or more deferred installments;

(12) "Retail seller" or "seller", a person who sells a motor vehicle, not principally for resale, to a retail buyer under a retail installment contract;

(13) "Sales finance company", a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more sellers. The term includes but is not limited to a bank, trust company, loan and investment company, savings and loan association, financing institution, or registrant pursuant to sections 367.100 to 367.200, RSMo, if so engaged. The term shall not include a person who makes only isolated purchases of retail installment contracts, which purchases are not being made in the course of repeated or successive purchases of retail installment contracts from the same seller;

(14) "Time price differential", the amount, however denominated or expressed, as limited by section 365.120, in addition to the principal balance to be paid by the buyer for the privilege of purchasing the motor vehicle on time to be paid for by the buyer in one or more deferred installments;

(15) "Time sale price", the total of the cash sale price of the motor vehicle and the amount, if any, included for insurance and other benefits if a separate identified charge is made therefor and the amounts of the official fees and time price differential.

365.200. ADDITIONAL TIME SALE CONTRACTS. — 1. For any motor vehicle which is not subject to the Missouri motor vehicle time sales law as provided in sections 365.010 to 365.160, a seller is permitted to include in the contractual time sale of a motor vehicle the outstanding balance of a prior loan or lease of a motor vehicle used as a trade-in. For the purposes of this section, a "time sale contract" is a contract evidencing an installment transaction entered into in this state pursuant to which the title to or a lien upon the motor vehicle which is the subject of the installment transaction is retained or taken by the seller from the buyer as security for the buyer's obligation. The term includes a security agreement or a contract for the bailment or leasing of the motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of a motor vehicle upon satisfying the contract. "Motor vehicle" is any new or used automobile, mobile home, **manufactured home as defined in section 700.010, excluding a manufactured home with respect to which the requirements of subsections 1 to 3 of section 700.111, as applicable, have been satisfied**, motorcycle, truck, trailer, semitrailer, truck tractor or bus.

2. Any seller as provided in this section shall first qualify as a retail seller pursuant to sections 365.010 to 365.160.

369.229. APPROVED TRANSACTIONS AND LOANS. — 1. Every association may:

(1) Make loans secured by its accounts to the extent of the withdrawal value thereof and unsecured loans to any account owner but not exceeding such amount individually or in the aggregate as may be established by the director of the division of finance by regulation;

(2) Make loans of any type or kind, approved by the director of the division of finance, secured by mortgage or deed of trust constituting a first lien on real estate **as defined in section 442.010**, or a leasehold interest therein and having an unexpired term of at least five years or some term in excess of five years as may be fixed by regulation of the director of the division of finance;

(3) Make additional real estate loans secured by liens immediately subsequent to its own first lien upon the same property and with or without additional security;

(4) Purchase real estate loans of the same character as that upon which the association may make an original loan and lend money on the security of such loans;

(5) Participate in loans with other lenders on real estate of any type that the association could originate;

(6) Sell with or without recourse any real estate loan it holds or any participating interest therein.

2. Every association may, subject to such regulations as the director of the division of finance may prescribe:

(1) Make loans secured by the cash surrender value of any life insurance or annuity policy;

(2) Make loans for the purpose of repair, improvement, rehabilitation, furnishing or equipping real estate **as defined in section 442.010**;

(3) Make loans, and purchase obligations representing loans, for the purpose of mobile home financing, including development, holding and leasing of mobile home parks or sites, **provided that, for purposes of this section mobile home includes a manufactured home as defined in section 700.010**;

- (4) Make loans for the payment of educational expenses;
- (5) Make loans to homeowners with or without security for any purpose, but the aggregate of the unpaid balances of all such loans to any one borrower shall not exceed at any time the sum of five thousand dollars or such greater sum as the director of the division of finance may allow by regulation;
- (6) Make loans to its directors, officers, and employees; and
- (7) Make such other loans secured or unsecured as the director of the division of finance by regulation may permit.

370.300. LOANS, INTEREST RATE — CHARGES — REFUNDS TO MEMBERS. — 1. A credit union may lend to its members at reasonable rates of interest, which shall not exceed the maximum rate in similar classes allowed all other lenders under the laws of this state; however, a minimum interest charge not exceeding one dollar per month shall be allowable in all cases.

2. A credit union may charge a borrower expenses of making a loan including title examinations on real estate **as defined in section 442.010**, used as security for a loan, credit investigations, credit life insurance, and filing and recording fees by governmental agencies.

3. The board may at the close of a dividend period allocate a portion of receipts from interest on loans for the purpose of making an interest refund to members. The refund when made shall be made in proportion to the interest paid by members during the dividend period. The board may deny a refund to a member whose loans have been delinquent during the period. The board may limit the refund to interest from specific classes of loans and make the interest refund to members whose loans are included in such classes.

400.9-303. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY CERTIFICATE OF TITLE. — (a) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

(d) When a notice of lien is filed in accordance with chapter 301 or 306, RSMo, then the lien is perfected and this chapter shall not govern perfection or nonperfection or the priority of the lien even though a valid application for a certificate of title and the applicable fee was not delivered to the appropriate authority or the certificate of title was not issued by such authority.

(e) **Except as otherwise provided in this subsection and in section 400.9-334(e)(4), article 9 of this chapter [shall] does not apply to [liens on] the perfection or nonperfection, the priority, or the termination of a security interest in a manufactured [homes] home perfected in accordance with sections 700.350 to 700.390, RSMo, and the perfection or nonperfection, the priority and the termination of [the lien shall be] any such security interest are governed exclusively by those sections[, except liens or encumbrances on]. The perfection or nonperfection, the priority, and the termination of a security interest in manufactured homes perfected [pursuant to] by filing under article 9 of this chapter, after June 30, 2001, and before August 28, 2002, [and the perfection or nonperfection, the priority, termination, rights, duties, and interests flowing from them] are and shall remain [valid and may be terminated, completed, consummated, or enforced as required or permitted] governed by article 9 of this chapter, provided such [liens on such manufactured homes are] security interest is not perfected**

in accordance with sections 700.350 to 700.390, RSMo, [however when conflicting lienholders file liens on the same] **and provided further that a security interest in a manufactured home**, the lien filed] **perfected** under sections 700.350 to 700.390, RSMo, [shall have] **has** priority over [the lien filed] **security interests in the same manufactured home perfected by filing** under article 9 of this chapter[, for] **during** the time period after June 30, 2001, and before August 28, 2002.

(f) Article 9 of this chapter does not apply to a security interest in a manufactured home which is real estate as defined in subsection 7 of section 442.015. Article 9 of this chapter does apply to a security interest in a manufactured home which has been permanently affixed to real estate in accordance with subsection 1 of section 442.015, and which thereafter was detached or severed from such real estate, provided that:

(1) Article 9 of this chapter applies to such security interest only on and after all requirements of subsection 4 of section 700.111, have been satisfied with respect to such manufactured home; and

(2) On and after the satisfaction of such requirements, the perfection or nonperfection, the priority, and the termination of such security interest are governed exclusively by sections 700.350 to 700.390.

400.9-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES. — (a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 400.9-310(a);

(2) Sections 301.600 to 301.661, RSMo, **section 700.350**, and section 400.2A-304; or

(3) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (d) and sections 400.9-313 and 400.9-316(d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d) and section 400.9-316(d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(d) During any period in which collateral is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling or leasing goods of that kind, this section does not apply to a security interest in that collateral created by that person as debtor.

408.015. DEFINITIONS. — As used in sections 408.020 to 408.562:

(1) "Bank" shall mean bank, trust company, or bank and trust company;

(2) "Business loan" shall mean a loan to an individual or a group of individuals, the proceeds of which are to be used in a business or for the purpose of acquiring an interest in a business. The term shall also include a loan to a trust, estate, cooperative, association, or limited or general partnership;

(3) "Corporation" shall mean any corporation, whether for profit or not for profit, and including any urban redevelopment corporation;

(4) "Lender" shall include any bank, savings and loan association, credit union, corporation, partnership, or any other person or entity who makes loans or extends credit;

(5) "Monthly Index of Long Term United States Government Bond Yields" shall mean the monthly unweighted average yield for all outstanding United States Treasury bonds neither due nor callable in less than ten years, based on the daily closing bid prices in the over the counter market, as determined by the Board of Governors of the Federal Reserve System, published in the Federal Reserve Bulletin, and expressed in terms of percent per annum;

(6) "Residential real estate" shall mean any real estate used or intended to be used as a residence by not more than four families, one of whom is the borrower, **including a manufactured home as defined in section 700.010, which is real estate as defined in subsection 7 of section 442.015;**

(7) "Residential real estate loan" shall mean a loan made for the acquisition, construction, repair, or improvement of, or secured by, residential real estate. The term shall also include any loan made to refinance such a loan. No loan secured by residential real estate shall be considered to be a business loan unless such loan meets the requirements of subdivision (2) of this section and subdivision (2) of section 408.035.

408.250. DEFINITIONS. — Unless otherwise clearly indicated by the context, the following words when used in sections 408.250 to 408.370, for the purposes of sections 408.250 to 408.370, shall have the meanings respectively ascribed to them in this section:

(1) "Cash sale price" means the price stated in a retail time transaction for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of the retail time transaction, if such sale were for cash. The cash sale price may include the cost of taxes, official fees, if any, and charges for accessories and their installation and delivery, and for the servicing, repairing or improving of goods. If a retail time transaction involves the repair, modernization, alteration or rehabilitation of real property, the cash sale price may include reasonable fees and costs actually to be paid for construction permits and similar fees, the services of an attorney and any title search and title insurance relating to any mortgage, lien or other security interest taken, granted or reserved pursuant to contract;

(2) "Credit" means the right granted by a creditor to a debtor to defer payment of a debt or to incur debt and defer its payment. It includes the right to incur debt and defer its payment pursuant to the use of a card, plate, coupon book, or other credit confirmation or identification device or number or other identifying description;

(3) The term "creditor" refers only to creditors who regularly extend, or arrange for the extension of, credit whether in connection with loans, sales of property or services, or otherwise;

(4) "Goods" means all tangible chattels personal and merchandise certificates or coupons issued by a retail seller exchangeable for tangible chattels personal of such seller, but the term does not include motor vehicles, nonprocessed farm products, livestock, money, things in action, or intangible personal property. The term includes tangible chattels personal which, at the time of the sale or subsequently, are to be so affixed to realty as to become a part thereof whether or not severable therefrom;

(5) "Holder" of a retail time contract means the retail seller of the goods or services under the contract or, if the contract is purchased or otherwise acquired, the person purchasing or otherwise acquiring the contract;

(6) "Insurance company" means any form of lawfully authorized insurer in this state;

(7) "Motor vehicle" means any new or used automobile, motor home, **manufactured home as defined in section 700.010, excluding a manufactured home with respect to which the requirements of subsections 1 to 3 of section 700.111, as applicable, have been satisfied,** motorcycle, truck, trailer, semitrailer, truck tractor, or bus, primarily designed or used to transport

persons or property on a public highway, road or street, or a mobile or modular home or farm machinery or implements;

(8) "Official fees" means the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail time transaction;

(9) "Person" means an individual, partnership, corporation, association, and any other group however organized;

(10) "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail time transaction plus the amount, if any, included in a retail time contract, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits and official fees, minus the amount of the buyer's down payment in money or goods;

(11) "Retail buyer" or "buyer" means a person who buys goods or obtains services to be used primarily for personal, family, or household purposes and not primarily for business, commercial, or agricultural purposes from a retail seller in a retail time transaction;

(12) "Retail charge agreement" means an agreement entered into in this state between a retail seller and a retail buyer prescribing the terms of retail time transactions to be made from time to time pursuant to such agreement, and which provides for a time charge to be computed on the buyer's total unpaid balance from time to time;

(13) "Retail seller" or "seller" means a person who regularly sells or offers to sell goods or services to a buyer primarily for the latter's personal, family, or household use and not primarily for business, commercial, or agricultural use. The term also includes a person who regularly grants credit to retail buyers for the purpose of purchasing goods or services from any person, pursuant to a retail charge agreement, but shall not apply to any person licensed or chartered and regulated to engage regularly in the business of making loans from or in this state;

(14) "Retail time contract" means an agreement evidencing one or more retail time transactions entered into in this state pursuant to which a buyer engages to pay in one or more deferred payments the time sale price of goods or services. The term includes a chattel mortgage; conditional sales contract; and a contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of their cash sale price and by which it is agreed that the bailee or lessee is bound to become, or, for no further or a merely nominal consideration has the option of becoming, the owner of the goods upon full compliance with the provisions of the contract;

(15) "Retail time transaction" means a contract to sell or furnish or the sale of or furnishing of goods or services by a retail seller to a retail buyer for which payment is to be made in one or more deferred payments under and pursuant to a retail time contract or a retail charge agreement;

(16) "Services" means work, labor and services of any kind furnished or agreed to be furnished by a retail seller but does not include professional services including, but not limited to, services performed by an accountant, physician, lawyer or the like, unless the furnishing of such professional services is the subject of a signed retail time transaction;

(17) "Time charge" means the amount, however denominated or expressed, in excess of the cash sale price under a retail charge agreement or the principal balance under a retail time contract which a retail buyer contracts to pay or pays for goods or services. It includes the extension to the buyer of the privilege of paying therefor in one or more deferred payments;

(18) "Time sale price" means the total of the cash sale price of the goods or services and the amount, if any, included for insurance and other benefits if a separate identified charge is made therefor, and the amounts of the official fees, and the time charge.

441.005. DEFINITIONS. — Except as otherwise provided, when used in chapter 534, RSMo, chapter 535, RSMo, or this chapter, the following terms mean:

(1) "Lease", a written or oral agreement for the use or possession of premises;

(2) "Lessee", any person who leases premises from another, and any person residing on the premises with the lessee's permission;

(3) "Premises", land, tenements, condominium or cooperative units, air rights and all other types of real property leased under the terms of a rental agreement, including any facilities and appurtenances, to such premises, and any grounds, areas and facilities held out for the use of tenants generally or the use of which is promised to the tenant. "Premises" include structures, fixed or mobile, temporary or permanent, vessels, **manufactured homes as defined in section 700.010**, mobile trailer homes and vehicles which are used or intended for use primarily as a dwelling or as a place for commercial or industrial operations or storage;

(4) "Rent", a stated payment for the temporary possession or use of a house, land or other real property, made at fixed intervals by a tenant to a landlord.

442.010. DEFINITIONS. — When used in this chapter unless otherwise apparent from the context:

(1) The term "adult" shall be construed as meaning any person who is eighteen years of age or older;

(2) The term "minor" shall be construed as meaning any person who is less than eighteen years of age;

(3) The term "real estate" shall be construed as coextensive in meaning with lands, tenements and hereditaments, and as embracing all chattels real **and as including a manufactured home as defined in section 700.010, which is real estate as defined in subsection 7 of section 442.015.**

442.015. CONVEYANCE OR ENCUMBRANCE OF MANUFACTURED HOMES, REQUIREMENTS — AFFIDAVIT OF AFFIXATION — DEEMED REAL ESTATE, WHEN — DETACHMENT OR SEVERANCE FROM REAL ESTATE, EFFECT OF. — **1.** For the purposes of this section, "manufactured home" means a manufactured home as defined in section 700.010. Notwithstanding the foregoing, for the purposes of 11 U.S.C. Section 1322(b)(2), a manufactured home shall be deemed to be real property. For the purposes of this section, a manufactured home is permanently affixed if it is anchored to real estate by attachment to a permanent foundation, constructed in accordance with applicable state and local building codes and manufacturer's specifications as provided in 24 CFR Part 3285, and connected to residential utilities, such as, water, gas, electricity, or sewer or septic service.

2. To convey or voluntarily encumber a manufactured home as real estate, the following conditions shall be met:

(1) The manufactured home shall be permanently affixed to real estate;

(2) The ownership interests in the manufactured home and the real estate to which the manufactured home is or shall be permanently affixed shall be identical, provided, however, that the owner of the manufactured home, if not the owner of the real estate, is in possession of the real estate under the terms of a lease in recordable form that has a term that continues for at least twenty years after the date of execution, and the consent of the lessor of the real estate;

(3) The person or persons having an ownership interest in such manufactured home shall execute and record with the recorder of deeds of the county in which the real estate is located an affidavit of affixation as provided in subsection 3 of this section, and satisfy the other applicable requirements of this section; and

(4) Upon receipt of a certified copy of the affidavit of affixation, any person designated for filing the affidavit of affixation with the director of revenue under paragraph (h) of subdivision (1) of subsection 3 of this section shall file the certified copy of affidavit of affixation with the director of revenue as follows:

(a) In a case described in item (i) of subparagraph a. of paragraph (d) of subdivision (1) of subsection 3 of this section, the certified copy of the affidavit of affixation and the original manufacturer's certificate of origin, each as recorded in the county in which the real estate is located, shall be filed with the director of revenue under subsection 1 of section 700.111;

(b) In a case described in item (i) of subparagraph b. of paragraph (d) of subdivision (1) of subsection 3 of this section, the certified copy of the affidavit of affixation, as recorded in the county in which the real estate is located, and the original certificate of title shall be filed with the director of revenue under subsection 2 of section 700.111; and

(c) In a case described in item (ii) of subparagraph a. of paragraph (d) of subdivision (1), item (ii) of subparagraph b. of paragraph (d) of subdivision (1), or paragraph (f) of subdivision (1) of subsection 3 of this section, the certified copy of the affidavit of affixation, as recorded in the county in which the real estate is located and an application for confirmation of conversion shall be filed with the director of revenue under subsection 3 of section 700.111.

3. (1) An affidavit of affixation shall contain or be accompanied by:

(a) The name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number of the manufactured home, and whether the manufactured home is new or used;

(b) a. A statement that the party executing the affidavit is the owner of the real estate described therein or:

b. If not the owner of the real estate:

(i) A statement that the party executing the affidavit is in possession of the real estate under the terms of a lease in recordable form that has a term that continues for at least twenty years after the date of execution of the affidavit; and

(ii) The consent of the lessor of the real estate endorsed upon or attached to the affidavit and acknowledged or proved in the manner as to entitle a conveyance to be recorded;

(c) The street address and the legal description of the real estate to which the manufactured home is or shall be permanently affixed;

(d) a. If the manufactured home is not covered by a certificate of title, a statement by the owner to that effect, and either:

(i) A statement by the owner of the manufactured home that the manufactured home is covered by a manufacturer's certificate of origin, the date the manufacturer's certificate of origin was issued, the manufacturer's serial number, and a statement that annexed to the affidavit of affixation is the original manufacturer's certificate of origin for the manufactured home, duly endorsed to the owner of the manufactured home, and that the owner of the manufactured home shall surrender the manufacturer's certificate of origin to the director of revenue; or

(ii) A statement that the owner of the manufactured home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of origin for the manufactured home and that the owner of the manufactured home shall apply to the director of revenue for a confirmation of conversion of the manufactured home; or

b. If the manufactured home is covered by a certificate of title, either:

(i) A statement by the owner of the manufactured home that the manufactured home is covered by a certificate of title, the date the title was issued, the title number, and that the owner of the manufactured home shall surrender the title; or

(ii) A statement that the owner of the manufactured home, after diligent search and inquiry, is unable to produce the certificate of title for the manufactured home and that the owner of the manufactured home shall apply to the director of revenue for a confirmation of conversion of the manufactured home;

(e) A statement whether or not the manufactured home is subject to one or more security interests or liens and:

a. If the manufactured home is subject to one or more security interests or liens, the name and address of each party holding a security interest in or lien on the manufactured home, including but not limited to, each holder shown on any certificate of title issued by the director of revenue, if any, the original principal amount secured by each security interest or lien, and a statement that the security interest or lien shall be released; or

b. A statement that each security interest in or lien on the manufactured home, if any, has been released, together with due proof of each such release;

(f) If the manufactured home is covered by neither a manufacturer's certificate of origin nor a certificate of title, a statement by the owner of the manufactured home to that effect and that the owner of the manufactured home shall apply to the director of revenue for a confirmation of conversion of the manufactured home;

(g) A statement that the manufactured home is or shall be permanently affixed to the real estate; and

(h) The name and address of a person designated for filing the certified copy of the affidavit of affixation with the director of revenue, after it has been duly recorded in the real estate records, as provided in subsection 5 of this section.

(2) An affidavit of affixation shall be duly acknowledged or proved in like manner as to entitle a conveyance to be recorded, and when so acknowledged or proved and upon payment of the lawful fees therefor, the recorder of deeds shall immediately cause the affidavit of affixation and any attachments to be duly recorded and indexed in the same manner as other instruments affecting real property.

(3) The affidavit of affixation shall be accompanied by an applicable fee for recording and issuing a certified copy of such affidavit.

4. Neither the act of permanently affixing a manufactured home to real estate nor the recording of the affidavit of affixation shall impair the rights of any holder of a security interest in or lien on a manufactured home perfected as provided in section 700.350, unless and until the due filing with and acceptance by the director of revenue of an application to surrender the title as provided in subsection 2 of section 700.111, and the release of such security interest or lien as provided in section 700.370. Upon the filing of such a release, the security interest or lien perfected under section 700.350, is terminated.

5. The recorder of deeds shall deliver a certified copy of the affidavit of affixation and all attachments thereto to the person or party delivering the documents to the recorder for record. Upon receipt of a certified copy of the affidavit of affixation by the person designated therein, such person shall deliver for filing to the director of revenue such certified copy of the affidavit of affixation and the other documents as provided in subdivision (4) of subsection 2 of this section.

6. A manufactured home shall be deemed to be real estate when all of the following events have occurred:

(1) The manufactured home is permanently affixed to land as provided in subsection 1 of this section;

(2) An affidavit of affixation conforming to the requirements of subsection 3 of this section has been recorded in the conveyance records in the office of the county recorder in the county where the manufactured home is permanently affixed;

(3) A certified copy of the affidavit of affixation has been delivered for filing to the director of revenue as provided in subsection 5 of this section; and

(4) The requirements of subsections 1 to 3 of section 700.111, as applicable, have been satisfied.

7. Upon the satisfaction of the requirements of subsection 6 of this section, such manufactured home shall be deemed to be real estate; any mortgage, deed of trust, lien, or security interest which can attach to land, buildings erected thereon or fixtures affixed

thereto shall attach as of the date of its recording in the same manner as if the manufactured home were built from ordinary building materials on site. Title to such manufactured home shall be transferred by deed or other form of conveyance that is effective to transfer an interest in real estate, together with the land to which such structure has been affixed. The manufactured home shall be deemed to be real estate and shall be governed by the laws applicable to real estate.

8. Except as provided in subsections 3, 5, 6, and 7 of this section, an affidavit of affixation is not necessary or effective to convey or encumber a manufactured home or to change the character of the manufactured home to real estate. No conveyance of land upon which is located a manufactured home for which no affidavit of affixation has been recorded or for which an affidavit of severance has been recorded shall effect a conveyance or transfer of any interest in said manufactured home. Any such conveyance or transfer of such manufactured home may only be made under the provisions of chapter 700, and any agreement by any party to the transaction whereby the requirements of this subsection are waived shall be void as contrary to public policy.

9. Nothing in this section shall impair any rights existing under law prior to August 28, 2010, of anyone claiming an interest in the manufactured home.

10. (1) If and when a manufactured home for which an affidavit of affixation has been recorded is detached or severed from the real estate to which it is affixed, the person or persons having an interest in the real estate shall record an affidavit of severance in the records of real property conveyances of the county in which the affidavit of affixation with respect to the manufactured home is recorded. The affidavit of severance shall contain or be accompanied by:

(a) The name, residence, and mailing address of the owner of the manufactured home;

(b) A description of the manufactured home including the name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number of the manufactured home and whether it is new or used;

(c) The book number, page number, and date of recordation of the affidavit of affixation;

(d) A statement:

a. Of any facts or information known to the party executing the affidavit that could affect the validity of the title of the manufactured home or the existence or nonexistence of a security interest in or lien on it; or

b. That no such facts or information are known to such party;

(e) A declaration by an attorney-at-law duly admitted to practice in the courts of the state of Missouri or an agent of a title insurance company duly licensed to issue policies of title insurance in the state of Missouri that:

a. The manufactured home is free and clear of, or has been released from, all recorded security interests, liens, and encumbrances; and

b. Any facts or information known to him or her that could affect the validity of the title of the manufactured home or the existence or nonexistence of a security interest in or lien on it; or

c. That no such facts or information are known to him or her; and

(f) The name and address of the person designated for filing the certified copy of the affidavit of severance with the director of revenue, after it has been duly recorded in the real estate records, as provided in subsection 11 of this section.

(2) The affidavit of severance shall be duly acknowledged or proved in like manner as to entitle a conveyance to be recorded, and when so acknowledged or proved and upon payment of the lawful fees therefor, such recorder of deeds shall immediately cause the affidavit of severance and any attachments thereto to be duly recorded and indexed in the same manner as other instruments affecting real property.

(3) The affidavit of severance shall also be accompanied by an applicable fee for recording and issuing a certified copy of such affidavit.

11. The recorder of deeds shall deliver a certified copy of the affidavit of severance to the person or party delivering the documents to the recorder for record. Upon receipt of a certified copy of the affidavit of severance, the person designated therein shall deliver such certified copy of the affidavit of severance and the other documents, as provided in subdivision (1) of subsection 10 of this section, to the director of revenue.

513.010. LEVY AND REAL ESTATE DEFINED. — 1. The word "levy", as used in this chapter, shall be construed to mean the actual seizure of property by the officer charged with the execution of the writ.

2. The term "real estate", as used in this chapter shall be construed to include all estate and interest in lands, tenements and hereditaments, **including a manufactured home as defined in section 700.010, which is real estate as defined in subsection 7 of section 442.015.**

700.010. DEFINITIONS. — As used in sections 700.010 to 700.500, for the purpose of sections 700.010 to 700.500, the following terms mean:

(1) "Authorized representative", any person, firm or corporation, or employee thereof, approved or hired by the commission to perform inspection services;

(2) "Code", the standards relating to manufactured homes, or modular units as adopted by the commission. The commission, in its discretion, may incorporate, in whole or in part, the standards codes promulgated by the American National Standards Institute, the United States Department of Housing and Urban Development or other recognized agencies or organizations;

(3) "Commission", the public service commission;

(4) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or more used homes or one or more new manufactured homes, or one or more new modular units in any consecutive twelve-month period;

(5) "Installer", an individual who is licensed by the commission to install manufactured homes under sections 700.650 to 700.692;

(6) "Manufactured home", [a factory-built structure or structures which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, contains three hundred twenty or more square feet, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon may be moved from time to time at the convenience of the owner] **structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code;**

(7) "Manufacturer", any person who manufactures manufactured homes, or modular units, including persons who engage in importing manufactured homes, or modular units for resale;

(8) "Modular unit", a transportable building unit designed to be used by itself or to be incorporated with similar units at a point-of-use into a modular structure to be used for residential, commercial, educational or industrial purposes. This definition shall not apply to

structures under six hundred fifty square feet used temporarily and exclusively for construction site office purposes;

(9) "New", being sold or offered for sale to the first purchaser for purposes other than resale;

(10) "Person", an individual, partnership, corporation or other legal entity;

(11) "Premises", a lot, plot, or parcel of land including the buildings, structures, and manufactured homes thereon;

(12) "Recreational park trailer", a recreational park trailer as defined in the American National Standards Institute (ANSI) A119.5 Standard on Recreational Park Trailers. A recreational park trailer is not a recreational vehicle;

(13) "Recreational vehicle", a recreational vehicle as defined in the American National Standards Institute (ANSI) A119.2 Standard on Recreational Vehicles;

(14) "Seal", a device, label or insignia issued by the public service commission, U.S. Department of Housing and Urban Development, or its agent, to be displayed on the exterior of the manufactured home, or modular unit to evidence compliance with the code;

(15) "Setup", the operations performed at the occupancy site which renders a manufactured home or modular unit fit for habitation, which operations include, but are not limited to, moving, blocking, leveling, supporting, and assembling multiple or expandable units.

700.100. REFUSAL TO RENEW, GROUNDS, NOTIFICATION TO APPLICANT, CONTENTS—COMPLAINTS MAY BE CONSIDERED. — 1. The commission may refuse to register or refuse to renew the registration of any person who fails to comply with the provisions of sections 700.010 to 700.115. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be delivered to the applicant within thirty days from date it is received by the commission. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. The commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if proven, shall constitute grounds for revocation or suspension of his **or her** registration, or the placing of the registered manufacturer or dealer on probation.

3. The following specifications shall constitute grounds for the suspension, revocation or placing on probation of a manufacturer's or dealer's registration:

(1) If required, failure to comply with the provisions of section 301.280, RSMo;

(2) Failing to be in compliance with the provisions of section 700.090;

(3) If a corporation, failing to file all franchise or sales tax forms required by Missouri law;

(4) Engaging in any conduct which constitutes a violation of the provisions of section 407.020, RSMo;

(5) Failing to comply with the provisions of Sections 2301-2312 of Title 15 of the United States Code (Magnuson-Moss Warranty Act);

(6) As a dealer, failing to arrange for the proper initial setup of any new manufactured home or modular unit sold from or in the state of Missouri, except as allowed under subsection 5 of section 700.656; the dealer shall receive a written waiver of that service from the purchaser or his or her authorized agent;

(7) **As a dealer, failing to obtain for each used manufactured home or used modular unit sold a written notice, signed, and dated by the purchaser or the purchaser's agent that states: "The Missouri Public Service Commission does not regulate setup of used manufactured homes and used modular units sold by the dealer.";**

(8) Requiring any person to purchase any type of insurance from that manufacturer or dealer as a condition to his **or her** being sold any manufactured home or modular unit;

~~[(8)]~~ **(9)** Requiring any person to arrange financing or utilize the services of any particular financing service as a condition to his **or her** being sold any manufactured home or modular unit; provided, however, the registered manufacturer or dealer may reserve the right to establish reasonable conditions for the approval of any financing source;

~~[(9)]~~ **(10)** Engaging in conduct in violation of section 700.045;

~~[(10)]~~ **(11)** Failing to comply with the provisions of section 301.210, RSMo;

~~[(11)]~~ **(12)** Failing to pay all necessary fees and assessments authorized pursuant to sections 700.010 to 700.115.

4. The commission may order that any suspension, revocation, or probation ordered under subsection 3 of this section shall apply to all manufacturer's or dealer's registrations that are held by the same manufacturer or dealer or that are owned or controlled by the same person or persons if a continued and consistent pattern of the violations have been identified by the commission to be present with each ~~[licensee]~~ **registrant** under the same control or ownership.

700.111. SURRENDER OF CERTIFICATE OF ORIGIN AND CERTIFICATE OF TITLE — CONFIRMATION OF CONVERSION, WHEN — RULEMAKING AUTHORITY — 1. [The owner of a manufactured home may convert the manufactured home to real property by:

(1) Attaching the manufactured home to a permanent foundation situated on real estate owned by the manufactured home owner; and

(2) The removal or modification of the transporting apparatus including but not limited to wheels, axles and hitches rendering it impractical to reconvert the real property thus created to a manufactured home.] **(1) The owner or owners of a manufactured home that is covered by a manufacturer's certificate of origin and that is permanently affixed to real estate as defined in subsection 1 of section 442.015, or which the owner intends to permanently affix to real estate as defined in subsection 1 of section 442.015, may surrender the manufacturer's certificate of origin to the manufactured home to the director of revenue by filing with the director of revenue, in the form prescribed by the director, an application for surrender of manufacturer's certificate of origin containing or accompanied by:**

(a) The name, residence, and mailing address of the owner;

(b) A description of the manufactured home including the name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number of the manufactured home and whether it is new or used and any other information the director of revenue requires;

(c) The date of purchase by the owner of the manufactured home, the name and address of the person from whom the home was acquired and the names and addresses of any security interest holders and lienholders in the order of their apparent priority;

(d) A statement signed by the owner, stating either:

a. Any facts or information known to the owner that could affect the validity of the title to the manufactured home or the existence or nonexistence of a security interest in or lien on it; or

b. That no such facts or information are known to the owner;

(e) A certified copy of the affidavit of affixation as provided in accordance with subsection 5 of section 442.015;

(f) The original manufacturer's certificate of origin;

(g) The name and mailing address of each person wishing written acknowledgment of surrender from the director of revenue;

(h) The applicable fee for filing the application for surrender; and

(i) Any other information and documents the director of revenue reasonably requires to identify the owner of the manufactured home and to enable the director to determine whether the owner satisfied the requirements of subsection 6 of section 442.015, and is

entitled to surrender the manufacturer's certificate of origin, and the existence or nonexistence of security interests in or liens on the manufactured home.

(2) When satisfied of the genuineness and regularity of the surrender of a manufacturer's certificate of origin to a manufactured home and upon satisfaction of the requirements of subdivision (1) of this subsection, the director of revenue shall:

(a) Cancel the manufacturer's certificate of origin and update the department's records in accordance with the provisions of section 700.320; and

(b) Provide written acknowledgment of compliance with the provisions of this section to each person identified on the application for surrender of a manufacturer's certificate of origin under paragraph (g) of subdivision (1) of this subsection.

(3) Upon satisfaction of the requirements of this subsection a manufactured home shall be conveyed and encumbered as provided in chapter 442. If the application to surrender a manufacturer's certificate of origin is delivered to the director of revenue within sixty days of recording the related affidavit of affixation with the recorder of deeds in the county in which the real estate to which the manufactured home is or shall be affixed and the application is thereafter accepted by the director of revenue, the requirements of this subsection shall be deemed satisfied as of the date the affidavit of affixation was recorded.

(4) Upon written request, the director of revenue shall provide written acknowledgment of compliance with the provisions of this subsection.

2. [The conversion of a manufactured home to real property by the method provided in subsection 1 of this section shall prohibit any political subdivision of this state from declaring or treating that manufactured home as other than real property.] (1) The owner or owners of a manufactured home that is covered by a certificate of title and that is permanently affixed to real estate in accordance with subsection 1 of section 442.015, or which the owner intends to permanently affix to real estate in accordance with subsection 1 of section 442.015, may surrender the certificate of title to the manufactured home to the director of revenue by filing with the director of revenue an application in the form prescribed by the director for surrender of title containing or accompanied by:

(a) The name, residence, and mailing address of the owner;

(b) A description of the manufactured home including the name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number of the manufactured home and whether it is new or used and any other information the director of revenue requires;

(c) The date of purchase by the owner of the manufactured home, the name and address of the person from whom the home was acquired and the names and addresses of any security interest holders and lienholders in the order of their apparent priority;

(d) A statement signed by the owner, stating either:

a. Any facts or information known to the owner that could affect the validity of the title to the manufactured home or the existence or nonexistence of a security interest in or lien on it; or

b. That no such facts or information are known to the owner;

(e) A certified copy of the affidavit of affixation provided in accordance with subsection 5 of section 442.015;

(f) The original certificate of title;

(g) The name and mailing address of each person wishing written acknowledgment of surrender from the director of revenue;

(h) The applicable fee for filing the application for surrender; and

(i) Any other information and documents the director of revenue reasonably requires to identify the owner of the manufactured home and to enable the director to determine whether the owner satisfied the requirements of subsection 6 of section 442.015, and is

entitled to surrender the certificate of title and the existence or nonexistence of security interests in or liens on the manufactured home.

(2) The director of revenue shall not accept for surrender a certificate of title to a manufactured home unless and until all security interests or liens perfected under section 700.350 have been released.

(3) When satisfied of the genuineness and regularity of the surrender of a certificate of title to a manufactured home and upon satisfaction of the requirements of subdivisions (1) and (2) of this subsection, the director of revenue shall:

(a) Cancel the certificate of title and update the department's records in accordance with the provisions of section 700.320; and

(b) Provide written acknowledgment of compliance with the provisions of this section to each person identified on the application for surrender of title under paragraph (g) of subdivision (1) of this subsection.

(4) Upon satisfaction of the requirements of this subsection a manufactured home shall be conveyed and encumbered as provided in chapter 442. If the application to surrender a certificate of title is delivered to the director of revenue within sixty days of recording the related affidavit of affixation with the recorder of deeds in the county in which the real estate to which the manufactured home is or shall be affixed, and the application is thereafter accepted by the director of revenue, the requirements of this subsection shall be deemed satisfied as of the date the affidavit of affixation was recorded.

(5) Upon written request, the director of revenue shall provide written acknowledgment of compliance with the provisions of this subsection.

3. (1) The owner or owners of a manufactured home that is not covered by a manufacturer's certificate of origin or a certificate of title, or that is covered by a manufacturer's certificate of origin or a certificate of title which the owner of the manufactured home, after diligent search and inquiry, is unable to produce, and that is permanently affixed to real estate in accordance with subsection 1 of section 442.015, or which the owner intends to permanently affix to real estate as defined in subsection 1 of section 442.015, may apply to the director of revenue by filing with the director of revenue an application for confirmation of conversion containing or accompanied by:

(a) The name, residence, and mailing address of the owner;

(b) A description of the manufactured home including the name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number of the manufactured home and whether it is new or used and any other information the director of revenue requires;

(c) The date of purchase by the owner of the manufactured home, the name and address of the person from whom the home was acquired and the names and addresses of any security interest holders and lienholders in the order of their apparent priority;

(d) A statement signed by the owner, stating either:

a. Any facts or information known to the owner that could affect the validity of the title to the manufactured home or the existence or nonexistence of a security interest in or lien on it; or

b. That no such facts or information are known to the owner;

(e) A certified copy of the affidavit of affixation as provided in accordance with subsection 5 of section 442.015;

(f) A declaration by an attorney-at-law, duly admitted to practice in the courts of the state of Missouri, or an agent of a title insurance company duly licensed to issue policies of title insurance in the state of Missouri, that the manufactured home is free and clear of, or has been released from, all recorded security interests, liens and encumbrances; and

a. Any facts or information known to him or her that could affect the validity of the title of the manufactured home or the existence or nonexistence of any security interest in or lien on it; or

- b. That no such facts or information are known to him or her;
 - (g) The name and mailing address of each person wishing written acknowledgment of surrender from the director of revenue;
 - (h) The applicable fee for filing the application for surrender; and
 - (i) Any other information and documents the director of revenue reasonably requires to identify the owner of the manufactured home and to enable the director to determine whether the owner satisfied the requirements of subsection 6 of section 442.015, and the existence or nonexistence of security interests in or liens on the manufactured home.
- (2) When satisfied of the genuineness and regularity of the application for confirmation of conversion of a manufactured home and upon satisfaction of the requirements of subdivision (1) of this subsection, the director of revenue shall:
- (a) Update the department's records in accordance with the provisions of section 700.320; and
 - (b) Provide written acknowledgment of compliance with the provisions of this subsection to each person identified on the application for confirmation of conversion under paragraph (g) of subdivision (1) of this subsection.
- (3) Upon satisfaction of the requirements of this subsection, a manufactured home shall be conveyed and encumbered as provided in chapter 442. If the application for confirmation of conversion of a manufactured home is delivered to the director of revenue within sixty days of recording the related affidavit of affixation with the recorder of deeds in the county in which the real estate to which the manufactured home is or shall be affixed and the application is thereafter accepted by the director of revenue, the requirements of this subsection shall be deemed satisfied as of the date the affidavit of affixation was recorded.
- (4) Upon written request, the director of revenue shall provide written acknowledgment of compliance with the provisions of this subsection.
4. (1) Notwithstanding any other provision of law, where a manufactured home has been permanently affixed to real estate and an affidavit of affixation has been recorded in the real estate records in the county in which the manufactured home is located in accordance with section 442.015, and where the manufactured home subsequently is detached or severed from the real estate, the owner or owners of the manufactured home may apply for a new certificate of title by filing with the director of revenue an application for a certificate of title to a manufactured home, containing or accompanied by:
- (a) The name, residence, and mailing address of the owner;
 - (b) A description of the manufactured home including the name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number of the manufactured home and whether it is new or used and any other information the director of revenue requires;
 - (c) A statement signed by the applicant, stating either:
 - a. Any facts or information known to the applicant that could affect the validity of the title of the manufactured home or the existence or nonexistence of any security interest in or lien on it; or
 - b. That no such facts or information are known to the applicant;
 - (d) A certified copy of the affidavit of severance provided in accordance with section 442.015;
 - (e) A declaration by an attorney-at-law, duly admitted to practice in the courts of the state of Missouri, or an agent of a title insurance company duly licensed to issue policies of title insurance in the state of Missouri, that the manufactured home is free and clear of, or has been released from, all recorded security interests, liens and encumbrances; and
 - a. Any facts or information known to him or her that could affect the validity of the title of the manufactured home or the existence or nonexistence of any security interest in or lien on it; or

- b. That no such facts or information are known to him or her;
 - (f) The applicable fee for filing the application; and
 - (g) Any other information and documents the director of revenue reasonably requires to identify the manufactured home and to enable the director to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in or liens on the manufactured home.
- (2) When satisfied of the genuineness and regularity of the application for a certificate of title to a manufactured home and upon satisfaction of the requirements of subdivision (1) of this subsection, the director shall issue a new certificate of title and update the department's records in accordance with the provisions of section 700.320.
- (3) Immediately upon satisfaction of the requirements of this subsection, a manufactured home shall be conveyed and encumbered as personal property.
- (4) Upon written request, the director of revenue shall provide written acknowledgment of compliance with the provisions of this subsection.
5. The department of revenue shall promulgate rules to implement the provisions of this section. The department of revenue shall also promulgate standard affidavit of affixation forms, affidavit of severance forms, and confirmation of conversion forms that comply with the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly under chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.
6. The provisions of this section shall become effective no later than March 1, 2011.

700.320. CERTIFICATE OF TITLE, APPLICATION PROCEDURE, FEES — PAYMENT OF SALES TAX BEFORE ISSUANCE — PURCHASE PRICE, DEFINED — CERTIFICATES MAY BE TRANSFERRED, WHEN, PROCEDURE — REFUSAL TO ISSUE, WHEN — AFFIDAVIT OF AFFIXATION, REQUIREMENTS — CERTIFICATES, REQUIREMENTS. — 1. Except as provided in section 700.111, the owner of any new or used manufactured home, as defined in section 700.010, shall make application to the director of revenue for an official certificate of title to such manufactured home in the manner prescribed by law for the acquisition of certificates of title to motor vehicles, and the rules promulgated pursuant thereto. All fees required by section 301.190, RSMo, for the titling of motor vehicles and all penalties provided by law for the failure to title motor vehicles shall apply to persons required to make application for an official certificate of title by this subsection. In case there is any duplication in serial numbers assigned any manufactured homes, or no serial number has been assigned by the manufacturer, the director shall assign the serial numbers for the manufactured homes involved.

2. At the time the owner of any new manufactured home, as defined in section 700.010, which was acquired in a transaction subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title for such manufactured home, he shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the manufactured home, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new manufactured home subject to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510, RSMo, has been paid as provided in this section, **but except as**

provided in subsection 2 of section 700.111, the director of revenue shall not suspend or revoke a certificate of title to a manufactured home by reason of the fact that at any time it shall become affixed in any manner to real estate. As used in this subsection, the term "purchase price" shall mean the total amount of the contract price agreed upon between the seller and the applicant in the acquisition of the new manufactured home regardless of the medium of payment therefor. In the event that the purchase price is unknown or undisclosed, or that the evidence thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisement by the director. The director of the department of revenue shall endorse upon the official certificate of title issued by him upon such application an entry showing that such sales tax has been paid or that the manufactured home represented by the certificate is exempt from sales tax and state the ground for such exemption.

3. A certificate of title for a manufactured home issued in the names of two or more persons that does not show on the face of the certificate that the persons hold their interest in the manufactured home as tenants in common, on death of one of the named persons, may be transferred to the surviving owner or owners. **Except as provided in subsection 5 of this section**, on proof of death of one of the persons in whose names the certificate was issued, surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate of title for the manufactured home to the surviving owner or owners; and the current valid certificate of number shall be so transferred.

4. A certificate of title for a manufactured home issued in the names of two or more persons that shows on its face that the persons hold their interest in the manufactured home as tenants in common, on death of one of the named persons, may be transferred by the director of revenue on application by the surviving owners and the personal representative or successors of the deceased owner. **Except as provided in subsection 5 of this section**, upon being presented proof of death of one of the persons in whose names the certificate of title was issued, surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate of title for the manufactured home to the surviving owners and personal representative or successors of the deceased owner; and the current valid certificate of number shall be so transferred.

5. **The director of revenue shall not issue a certificate of title to a manufactured home with respect to which there has been recorded an affidavit of affixation under section 442.015 unless with respect to the same manufactured home there has been recorded an affidavit of severance under section 442.015.**

6. **The director of revenue shall file, upon receipt, each affidavit of affixation and affidavit of severance relating to a manufactured home that is delivered in accordance with section 442.015, RSMo, when satisfied of its genuineness and regularity.**

7. **The director of revenue shall maintain a record of each affidavit of affixation and each affidavit of severance filed in accordance with subsection 6 of this section. The record shall state the name of each owner of the related manufactured home, the county of recordation, the date of recordation, and the book and page number of each book of records in which there has been recorded an affidavit of affixation or affidavit of severance under section 442.015, and any other information the director of revenue prescribes.**

8. **The director of revenue shall file, upon receipt, each application for surrender of the manufacturer's certificate of origin relating to a manufactured home that is delivered in accordance with subsection 1 of section 700.111, when satisfied of its genuineness and regularity.**

9. **The director of revenue shall file, upon receipt, each application for surrender of the certificate of title relating to a manufactured home that is delivered in accordance with subsection 2 of section 700.111, when satisfied of its genuineness and regularity.**

10. The director of revenue shall file, upon receipt, each application for confirmation of conversion relating to a manufactured home that is delivered in accordance with subsection 3 of section 700.111, when satisfied of its genuineness and regularity.

11. The director of revenue shall maintain a record of each manufacturer's certificate of origin accepted for surrender as provided in subsection 1 of section 700.111. The record shall state the name of each owner of the manufactured home, the date the manufacturer's certificate of origin was accepted for surrender, the county of recordation, the date of recordation, and the book and page number of each book of records in which there has been recorded an affidavit of affixation under section 442.015, and any other information the director of revenue prescribes.

12. The director of revenue shall maintain a record of each manufactured home certificate of title accepted for surrender as provided in subsection 2 of section 700.111. The record shall state the name of each owner of the manufactured home, the date the certificate of title was accepted for surrender, the county of recordation, the date of recordation, and the book and page number of each book of records in which there has been recorded an affidavit of affixation under section 442.015, and any other information the director of revenue prescribes.

13. The director of revenue shall maintain a record of each application for confirmation of conversion accepted as provided in subsection 3 of section 700.111. The record shall state the name of each owner of the manufactured home, the county of recordation, the date of recordation, and the book and page number of each book of records in which there has been recorded an affidavit of affixation under section 442.015, and any other information the director of revenue prescribes.

14. The holder of a manufacturer's certificate of origin to a manufactured home may deliver it to any person to facilitate conveying or encumbering the manufactured home. Any person receiving any such manufacturer's certificate of origin so delivered holds it in trust for the person delivering it.

15. Notwithstanding any other provision of law, a certificate of title issued by the director of revenue to a manufactured home is prima facie evidence of the facts appearing on it, notwithstanding the fact that such manufactured home, at any time, shall have become affixed in any manner to real estate.

16. When an owner wants to add or delete a name or names on an application for certificate of title to a manufactured home that would cause it to be inconsistent with the name or names listed on the notice of lien, the owner shall provide the director with documentation evidencing the lienholder's authorization to add or delete a name or names on an application for certificate of title.

700.350. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW — HOME SUBJECT TO, WHEN, HOW DETERMINED — SECURITY PROCEDURES — VALIDITY OF PRIOR TRANSACTIONS. — 1. As used in sections 700.350 to 700.390, the term "manufactured home" shall have the same [meanings] **meaning** given it in [section 700.010 or] section 400.9-102(a)(53), RSMo.

2. Unless excepted by section 700.375, a lien or encumbrance, **including a security interest under article 9 of chapter 400**, on a manufactured home shall not be valid against subsequent transferees or lienholders of the manufactured home who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 700.350 to 700.380.

3. A lien or encumbrance on a manufactured home is perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed by the director of revenue. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the notice of lien required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery;

provided, however, that a purchase money security interest in a manufactured home under article 9 of chapter 400, is perfected against the rights of judicial lien creditors and execution creditors on and after the date such purchase money security interest attaches; and further provided that the holder of a security interest in or a lien on a manufactured home may deliver lien release documents to any person to facilitate conveying or encumbering the manufactured home. Any person receiving any such documents so delivered holds the documents in trust for the security interest holder or the lienholder.

A notice of lien shall contain the name and address of the owner of the manufactured home and the secured party, a description of the manufactured home, including any identification number and such other information as the department of revenue shall prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" in the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one lien. To secure future advances when an existing lien on a manufactured home does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted by the department of revenue, and returned to the lienholder.

4. Whether a manufactured home is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the manufactured home would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the manufactured home is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected under paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director prescribes and the required fee.

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of lien on a manufactured home given as permitted in this chapter is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in this chapter is that of the director of revenue, and detecting error in the transmission or the content

of such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

6. All transactions involving liens or encumbrances on manufactured homes perfected pursuant to sections 700.350 to 700.390 after June 30, 2001, and before August 28, 2002, and the rights, duties, and interests flowing from them are and shall remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by section 400.9-303[, RSMo, or this section]. Section 400.9-303, RSMo, and this section are remedial in nature and shall be given that construction.

7. [The repeal and reenactment of subsections 3 and 4 of this section shall become effective July 1, 2003] **Except as otherwise provided in section 442.015, subsections 1 and 2 of section 700.111, subsection 2 of section 700.360, and subsection 2 of section 700.375, after a certificate of title has been issued to a manufactured home and as long as the manufactured home is subject to any security interest perfected under this section, the department shall not file an affidavit of affixation, nor cancel the manufacturer's certificate of origin, nor revoke the certificate of title, and, in any event, the validity and priority of any security interest perfected under this section shall continue, notwithstanding the provision of any other law.**

700.360. CREATION OF LIEN OR ENCUMBRANCE BY OWNER, DUTIES, FAILURE TO PERFORM, PENALTY — SUBORDINATE LIENHOLDERS, PERFECTION PROCEDURE — NEW CERTIFICATE ISSUED, WHEN — GOVERNING, LAW. — 1. Except as provided in subsection 2 of this section, if an owner creates a lien or encumbrance on a manufactured home:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the certificate of title, showing the name and address of the lienholder and the date of his security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do so, including naming the lienholder in such application, is a class A misdemeanor;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the director of revenue accompanied by all other necessary documentation to perfect a lien as provided in this section;

(3) To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver, or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate shall either mail or deliver, or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;

(4) Upon receipt of the documents and fee required in subdivision (3) of this section, the director of revenue shall issue a new certificate of ownership containing the name and address of the new lienholder, and shall mail the certificate as prescribed in section 700.355, or if a lienholder who has elected for the director of revenue to retain possession of an electronic certificate of ownership, the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate. Upon receipt of such authorization, a notice of lien and required documents and title fee, if applicable,

from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of ownership being electronically retained by the director and provide confirmation of the addition to both lienholders.

2. With respect to a manufactured home that is or will be permanently affixed to real estate, upon recordation of an affidavit of affixation under section 442.015, and satisfaction of the requirements of subsections 1 to 3 of section 700.111, as applicable, any perfection or termination of a security interest with respect to such permanently affixed property shall be governed by chapter 442.

700.370. SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE. — 1. Upon the satisfaction of a lien or encumbrance on a manufactured home, the lienholder shall, within ten days after demand, release the lien or encumbrance on the certificate or a separate document, and mail or deliver the certificate or separate document to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate or separate document. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The release on the certificate or separate document shall be notarized. The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of a lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner.

700.375. PROVISIONS OF SECTIONS 700.350 TO 700.380 EXCLUSIVE — EXCEPTIONS. —
1. Sections 700.350 to 700.380 shall not apply to or affect:

- (1) A lien given by statute or rule of law to a supplier of services or materials for the manufactured home;
- (2) A lien given by statute to the United States, this state or any political subdivision of this state;
- (3) A lien or encumbrance on a manufactured home created by a manufacturer or dealer who holds the manufactured home for sale.

2. Except as otherwise provided in paragraph (e) of section 400.9-303, with respect to security interests in manufactured homes perfected by filing under article 9 of chapter 400 and before August 28, 2002, the method provided in sections 700.350 to 700.380 of perfecting and giving notice of liens or encumbrances subject to sections 700.350 to 700.380 is exclusive; provided, however, that with respect to a manufactured home that is or will be permanently affixed to real estate, upon recordation of an affidavit of affixation under section 442.015, and satisfaction of the requirements of subsections 1 to 3 of section 700.111, as applicable, any perfection or termination of a security interest with respect to such permanently affixed property shall be governed by chapter 442.

700.385. REPOSSESSED HOMES, CERTIFICATE OF TITLE — APPLICATION PROCEDURE, FEE, FORM OF — MANUFACTURED HOMES, NOTICE — ISSUED WHEN — DIRECTOR OF REVENUE, DUTIES — RULEMAKING AUTHORITY. — 1. When the holder of any indebtedness secured by a security agreement or other contract for security covering a manufactured home, who has a notice of lien on file with the director of revenue, repossesses the manufactured home either by legal process or in accordance with the terms of a contract authorizing the repossession of the manufactured home without legal process, the holder may obtain a certificate of ownership from the director of revenue upon presentation of:

(1) An application form furnished by the director of revenue which shall contain a full description of the manufactured home and the manufacturer's or other identifying number;

(2) A notice of lien receipt or the original certificate of ownership reflecting the holder's lien; and

(3) An affidavit of the holder, certified under penalties of perjury for making a false statement to a public official, that the debtor defaulted in payment of the debt, and that the holder repossessed the manufactured home either by legal process or in accordance with the terms of the contract, **and the name and address of the owner of the real estate, other than the debtor, from whom the home was repossessed, and that the holder has paid to the real property owner all rent that has accrued in the real property owner's favor that the holder is obligated to pay under the provisions of section 700.529**, and the specific address where the manufactured home is held. Such affidavit shall also state that the lienholder has the written consent from all owners or lienholders of record to repossess the manufactured home or has provided all the owners or lienholders with written notice of the repossession.

2. On a manufactured home, the lienholder shall first give:

(1) Ten days' written notice by first class United States mail, postage prepaid, to each of the owners and other lienholders, if any, of the manufactured home at each of their last mailing addresses as shown by the last prior certificate of ownership, if any issued, or the most recent address on the lienholder's records, that an application for a repossessed title will be made; or

(2) The lienholder may, ten days prior to applying for a repossession title, include the information in the above notice in the appropriate uniform commercial code notice under sections 400.9-613 or 400.9-614, RSMo. Such alternative notice to all owners and lienholders shall be valid and enforceable under both the uniform commercial code and this section, provided it otherwise complies with the provisions of the uniform commercial code.

3. Upon the holder's presentation of the papers required by subsection 1 of this section and the payment of a fee of ten dollars, the director of revenue, if he **or she** is satisfied with the genuineness of the papers, shall issue and deliver to the holder a certificate of ownership which shall be in its usual form except it shall be clearly captioned "Repossession Title". Each repossessed title so issued shall, for all purposes, be treated as an original certificate of ownership and shall supersede the outstanding certificate of ownership, if any, and duplicates thereof, if any, on the manufactured home, all of which shall become null and void.

4. In any case where there is no certificate of ownership, or duplicate thereof, outstanding in the name of the debtor on the repossessed manufactured home, the director of revenue shall issue a repossessed title to the holder and shall proceed to collect all unpaid fees, taxes, charges and penalties owed by the debtor, in addition to the fee specified in subsection 3 of this section.

5. The director of revenue may prescribe rules and regulations for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

700.525. MANUFACTURED HOME DEFINED. — As used in sections 700.525 to 700.541, [the following terms mean:

(1) "Abandoned", a physical absence from the property, and either:

(a) Failure by a renter of real property to pay any required rent for fifteen consecutive days, along with the discontinuation of utility service to the rented property for such period; or

(b) Indication of or notice of abandonment of real property rented from a landlord;

(2)] "manufactured home"[, a factory-built structure] **shall mean: a manufactured home as defined in [subdivision (6) or] section 700.010, excluding a manufactured home with respect to which the requirements of subsections 1 to 3 of section 700.111, as applicable, have been satisfied, or a modular unit as defined in subdivision (8) of section 700.010.**

700.526. ABANDONMENT DEEMED, WHEN. — A manufactured home as defined in section 700.010 which is placed on the real estate of another under a rental agreement shall be deemed abandoned if:

- (1) The real property owner has a reasonable belief that the homeowner has vacated the premises and intends not to return; and**
- (2) That rent is due and the homeowner has not paid such rent for thirty days; and**
- (3) The homeowner has failed to respond to the real property owner's notice of lien and abandonment set out in subsection 3 of section 700.527 by either failing to pay the rent or file a petition in the associate circuit court to contest the issue of abandonment and the lien.**

700.527. ABANDONMENT OF MANUFACTURED HOME OR RENTAL REAL PROPERTY — OWNER OF PROPERTY MAY SEEK LIEN, WHEN, PROCEDURE — DIRECTOR'S DUTIES. — 1. If a person abandons a manufactured home on any real property owned by another who is renting such real property to the owner of the manufactured home, and such abandonment is without the consent of the owner of the real property, **and the abandoned manufactured home is not subject to any lien perfected according to sections 700.350 to 700.380,** the owner of the real property [may seek possession of and title to the manufactured home in accordance with the provisions of sections 700.525 to 700.541 subject to the interest of any party with a security interest in the manufactured home] **shall have a lien for unpaid rent against the manufactured home. The lien for unpaid rent shall be enforced as provided in this section and may be contested as provided in section 700.528.**

[2. The landlord seeking possession of the manufactured home shall submit a report to the director of revenue. Such report shall include the following:

(1) An application, which shall be upon a blank form furnished by the director of revenue and shall contain the full description of the manufactured home and the manufacturer's or other identifying number;

(2) An affidavit of the landlord seeking possession of the manufactured home, stating that the manufactured home is abandoned as defined by section 700.525 and applicable rule of the department, the duration of such abandonment, that the manufactured home is located upon real property owned by the landlord, and that the manufactured home is the subject of a valid rental agreement signed by the renter, along with the original, or a photostatic or conformed copy of the original contract for rental of real property; and

(3) Any other information that the director of revenue may require by rule.]

2. The real property owner claiming a lien on an abandoned manufactured home shall give written notice to the owner of the manufactured home, by certified mail, return receipt requested. The notice shall contain the following:

- (1) The name, address, and telephone number of the real property owner;**
- (2) The name of the owner of the manufactured home and the make, year, and serial number of the manufactured home;**
- (3) That the manufactured home is abandoned as provided in section 700.526 and applicable rule of the director of revenue;**
- (4) The duration of such abandonment;**
- (5) That the manufactured home is located on real estate owned by the real property owner;**
- (6) That the home is located on such real estate by reason of a valid rental agreement;**
- (7) That the homeowner is in default of the rental agreement;**

(8) The amount of rent accrued to the date of the notice and the monthly rate at which future rent will accrue until the abandoned home is redeemed;

(9) That the homeowner has not paid or made arrangements for the payment of the accrued rent;

(10) That the real property owner claims a lien for all such rent;

(11) That the owner of the manufactured home may redeem the abandoned manufactured home at any time during business hours by paying all rent accrued under the terms of the rental agreement;

(12) That the manufactured homeowner has a right to contest the real property owner's lien by filing, within ten days of receipt of the notice required by this section, a petition in the associate circuit division of circuit court of the county in which the manufactured home is located;

(13) That if the manufactured home remains unredeemed thirty days from the date of mailing of the notice and within ten days of mailing of the notice a petition is not filed to contest the lien, the real property owner may apply to the director of revenue for a lien title. Upon receipt of a lien title, the real property owner shall have the right to sell the manufactured home to recover unpaid rent, actual and necessary expenses incurred in obtaining a lien title, and conducting and advertising the sale.

3. The real property owner's lien and the sum of which the homeowner shall be obligated to pay to satisfy the lien shall be the unpaid rent accrued under the terms of the rental agreement to the date the homeowner satisfied the lien or if not so satisfied to the date the home is sold under this section.

4. The owner of the manufactured home shall not have the right to remove the home from the real property owner's property until such time as all rent provided for the rental agreement is paid.

5. If the homeowner has not paid or made arrangements for the payment of the accrued rent with the real property owner within thirty days from the date of mailing of the notice and no petition as provided in section 700.528 has been filed in the associate circuit division of the circuit court in the county in which the abandoned manufactured home is located to contest the lien or if filed has been dismissed or judgment has been entered on the petition establishing the real property owner's lien, the real property owner may apply to the director of revenue for a certificate of title in order to enforce the lien.

6. The application for a lien title shall be in the form furnished by the director of revenue and shall contain and be accompanied by:

(1) The make, year, and serial number of the manufactured home;

(2) An affidavit of the owner of real property seeking possession of the manufactured home that states:

(a) The manufactured home is abandoned as provided in section 700.526 and by applicable rule of the director of revenue;

(b) The duration of such abandonment;

(c) The manufactured home is located upon real property owned by the real property owner;

(d) The manufactured home is located on the real estate by reason of a valid rental agreement;

(e) The homeowner is in default of the rental agreement;

(f) The amount of past-due rent and the monthly rate at which future rent will accrue under the rental agreement;

(g) The homeowner has not paid or made arrangements for the payment of the rent;

(h) The owner of real property claims a lien for all such rent;

(i) The real property owner mailed the notice required by subsection 3 of this section to the owner of the manufactured home by certified mail, return receipt requested;

(j) The manufactured homeowner has not filed a petition in the associate circuit division of circuit court contesting the real property owner's lien, or if a petition was filed, that either the homeowner's petition was dismissed or that a judgment in the real property owner's favor establishing the lien was entered;

(3) A copy of the thirty-day notice given by certified mail to the owner of the manufactured home;

(4) A copy of the certified mail receipt indicating that the owner was sent the notice as required in subsection 3 of this section;

(5) A copy of the envelope or mailing container showing the address and postal marking that indicate the notice was not forwardable or address unknown;

(6) An original, photostatic, or conformed copy of the original contract for the rental of the real property;

(7) A copy of any judgment of dismissal of the homeowner's petition to contest the lien or a judgment awarding the real property owner a lien against the manufactured home; and

(8) Any other information that the director of revenue may require by rule.

7. If the director is satisfied with the genuineness of the application and supporting documents submitted under this section, the director shall issue, in the manner a reposessed title is issued, a certificate of ownership or certificate of title to the real property owner which shall be captioned "lien title".

8. Upon receipt of a lien title, the holder shall within thirty days begin proceedings to sell the manufactured home as prescribed in this section. The real property owner shall be entitled to any actual and necessary expenses incurred in obtaining the lien title, including, but not limited to reasonable attorney's fees and cost of advertising.

9. The sale of the manufactured home shall be held only after giving the owner not less than twenty days' notice, by one of the following means:

(1) By personal delivery to the owner of a copy of the notice set out below;

(2) By mailing a copy of the notice set out in subsection 11 of this section, by registered mail addressed to the owner of the manufactured home in which case a return receipt shall be evidence of due notice;

(3) By publishing the notice not less than twice in a newspaper of general circulation in the county in which the manufactured home is to be sold, the last publication to be not less than twenty days prior to the date of sale; or

(4) If no newspaper is published within the county in which said manufactured home is to be sold, then by posting the notice, not less than twenty days prior to the date of sale, on five handbills placed in five different places in the county in which the manufactured home is to be sold and with one of such handbills posted where the manufactured home is located.

10. The form of the notice shall be substantially as follows:

"NOTICE

Notice is hereby given that on (insert date), sale will be held at (insert place), to sell the following manufactured home to enforce a lien existing under the laws of the state of Missouri for real estate rental, unless the manufactured home is redeemed prior to the date of sale:

Name of Owner: Description of Manufacturer's Amount of Lien:

Manufactured Serial Number:

Home:

Name of Lienor:".

11. The owner of the manufactured home may redeem the home prior to the sale by payment of all rents due and owing to the real property owner under the rental agreement to the date of sale or payment, whichever is sooner, and payment of actual and

necessary expenses incurred in obtaining the lien, including but not limited to reasonable attorney's fees, and necessary expenses of advertising the sale.

12. If the manufactured home is not redeemed prior to the date of sale provided in the notice set forth in this section, the real property owner may sell the manufactured home on the day and at the place specified in the notice. The proceeds of sale shall be distributed in the following order:

(1) To the satisfaction of real property owner's past-due rent and reimbursement of its actual and necessary expenses incurred in obtaining the lien and lien title, including attorney's fees and the necessary expenses of advertising the sale provided for in this section;

(2) The excess, if any, shall be paid to the manufactured homeowner.

If the manufactured homeowner cannot be located within thirty days of the date of sale, the excess, if any, shall be deposited with the county treasurer of the county in which the home was sold and in the case of a sale within a city not within a county with its treasurer, together with a sworn statement containing the name of the owner, description of the manufactured home by manufacturer's serial number, amount of lien, sale price, name of purchaser, and costs and manner of advertising.

13. Such treasurer shall credit such excess to the general revenue fund of the county or a city not within a county, subject to the right of the owner to reclaim the same at any time within three years of the date of such deposit with the treasurer, after presentation of proper evidence of ownership and obtaining an order of the county commission, or comptroller of a city not within a county, directed to said treasurer for the return of such excess deposit.

14. Any lienor failing to or refusing to deliver to such treasurer the excess proceeds of sale together with a sworn statement as required in this section within thirty days after such sale, shall be liable for double the excess of proceeds of such sale, to be recovered in any court of competent jurisdiction by civil action.

15. The real property owner's compliance with the requirements of this section shall be a perpetual bar to any action against such owner of real property by any person for the recovery of the manufactured home or its value or of any damages growing out of the taking of possession and sale of such manufactured home.

16. The real property owner may be a purchaser at the public sale conducted under this section.

17. The provisions of this section shall not apply to a manufactured home which is real estate as defined in subsection 7 of section 442.015.

700.528. CONTEST OF LIEN, PROCEDURE. — 1. The owner of the abandoned manufactured home, within ten days of the mailing of the real property owner's notification provided for in subsection 3 of section 700.527, may file a petition in the associate circuit division of circuit court in the county in which the abandoned manufactured home is located to contest the real property owner's lien. The petition shall name the real property owner as a defendant. The director of revenue shall not be a party to such petition, but a copy of the petition shall be served on the director who shall not issue a lien title to such abandoned manufactured home until the court by judgment upholds the lien or until the homeowner's petition is dismissed.

2. Upon the filing of the petition in the associate circuit division of circuit court, the owner may have the manufactured home released from the lien upon posting with the court, for the benefit of the real property owner, a cash or surety bond or other adequate security equal to the amount of the rental charges due and those which will accrue during the term of the proceedings to ensure payment of such rent in the event the manufactured homeowner does not prevail. Upon posting of the bond, the court shall issue an order notifying the real property owner of the posting of the bond and directing the real

property owner to release the manufactured home to its owner. The court shall then proceed to determine the parties' rights to the proceeds of the bond.

3. If the court determines the homeowner owes unpaid rent under the rent agreement, the court shall give judgment to the real property owner in the sum of the unpaid rent, declare a lien in the real property owner's favor against the manufactured home, or if bond has been posted, order that so much of the bond proceeds as are necessary to satisfy the judgment to be immediately paid to the real property owner. The real property owner shall enforce the lien for the unpaid rent by submitting an application for lien title in the form and containing the information required by section 700.527. The real property owner shall attach to the application for lien title a copy of the judgment rendered by the associate circuit court. The homeowner may satisfy the lien by paying the amount set out in the judgment together with statutory judgment interest.

700.529. NOTICE OF LIEN — LIEN AMOUNT DEEMED UNPAID RENT — NO CERTIFICATE OF TITLE UNTIL ALL RENT PAID. — [Upon proof of all the foregoing in section 700.527 by proper affidavit and upon compliance with the provisions of sections 700.525 to 700.541, the director of revenue shall, if requested, issue a new certificate of title to the landlord.] 1. If a person abandons a manufactured home on any real property owned by another who is renting such real property to the owner of the manufactured home, and such abandonment is without the consent of the owner of the real property, and there exists a lien perfected according to sections 700.350 to 700.380 on the manufactured home which is in default, the owner of the real property shall have a lien for unpaid rental against the manufactured home upon compliance with the provisions of this section by giving notice to the manufactured homeowner and any party with a perfected lien in the abandoned home by certified mail, postage prepaid and return receipt requested. The notice shall contain the following:

- (1) The name, address, and telephone number of the real property owner;
- (2) The name and last known address of the owner of the manufactured home;
- (3) The make, year, and serial number of the manufactured home;
- (4) That the manufactured home is abandoned as provided in section 700.526 and by applicable rule of the director;
- (5) That the manufactured home is located on real estate owned by the real property owner;
- (6) That the home is located on the real estate by reason of a valid rental agreement;
- (7) That the homeowner is in default of the rental agreement;
- (8) The amount of past-due rent and the monthly rate at which future rent will accrue under the rental agreement;
- (9) That the homeowner has not paid or made arrangements for the payment of the rent;
- (10) That the real property owner claims a lien for such rental;
- (11) That the owner of the manufactured home may redeem the home at any time during business hours by paying all unpaid rent accrued under the terms of the rental agreement through the date of removal of the home from the real property owner's premises and the perfected lienholder may redeem the abandoned manufactured home at any time during business hours by paying all rent specified in the rental agreement which accrues during the period beginning thirty days after this notice has been mailed to the perfected lienholder and continuing to the date the home is removed from real property owner's premises;
- (12) That the manufactured homeowner and the perfected lienholder shall each have the right to contest the real property owner's lien by filing, within ten days of the date of mailing the notice required by this section, a petition in the associate circuit division of the circuit court of the county in which the manufactured home is located;

(13) That if the rent due remains unpaid thirty days from the date mailing of the notice and within ten days of mailing of the notice the petition referred to in subdivision (12) of this subsection is not filed to contest the lien, the real property owner shall have a lien against the manufactured home which shall be superior to the perfected lienholder's lien and the amount of the lien shall continue to accrue monthly until the home is removed from real property owner's premises.

2. The real property owner's lien and the sum which the homeowner shall be obligated to pay to satisfy the lien shall be the unpaid rent accrued under the terms of the rental agreement through the date the home is removed from real property owner's premises and the real property owner's lien and the sum which the perfected lienholder shall be obligated to pay to satisfy the lien shall be the unpaid rental specified in the rental agreement which accrues during the period beginning thirty days after the notice specified in this section has been mailed to the lienholder and continuing to the date the home is removed from real property owner's premises. If an injunction or stay order issued by any court of competent jurisdiction prohibits the lienholder from removing the home, the lienholder's obligation to pay the rent shall abate until the date the injunction or stay order is lifted.

3. The owner of the manufactured home shall not have the right to remove the home from the real property owner's property until such time as all rent provided for in the rental agreement is paid and the perfected lienholder shall not have the right to remove the home until such time as the lienholder has paid all rent it is obligated to pay to the real property owner under the provisions of this section.

4. Until a perfected lienholder has paid all rent it is obligated to pay to the real property owner accrued in the real property owner's favor under the provisions of this section, the director shall not issue a certificate of title or repossession title to the manufactured home to the perfected lienholder.

5. The owner of the abandoned manufactured home or the perfected lienholder, within ten days of mailing of the notice specified in subsection 1 of this section, may file a petition in the associate circuit division of the circuit court of the county in which the abandoned manufactured home is located to contest the real property owner's lien. If the court determines the homeowner or the perfected lienholder owe unpaid rent, the court shall declare a lien in real property owner's favor and shall separately state the amount of the homeowner or the perfected lienholder's obligation to the date of the judgment. The homeowner and the perfected lienholder may satisfy the lien by paying the amount set out in the judgment of the court.

700.630. SURVIVORSHIP INTEREST IN MANUFACTURED HOMES — ISSUANCE OF CERTIFICATES OF OWNERSHIP, REQUIREMENTS, RESTRICTIONS. — 1. A sole owner of a manufactured home, and multiple owners of a manufactured home who hold their interest as joint tenants with right of survivorship or as tenants by the entirety, on application and payment of the fee required for an original certificate of ownership, may request the director of revenue to issue a certificate of ownership for the manufactured home in beneficiary form which includes a directive to the director of revenue to transfer the certificate of ownership on death of the sole owner or on death of all multiple owners to one beneficiary or to two or more beneficiaries as joint tenants with right of survivorship or as tenants by the entirety named on the face of the certificate. The directive to the director of revenue shall also permit the beneficiary or beneficiaries to make one reassignment of the original certificate of ownership upon the death of the owner to another owner without transferring the certificate to the beneficiary or beneficiaries' name.

2. A certificate of ownership in beneficiary form may not be issued to persons who hold their interest in a manufactured home as tenants in common.

3. A certificate of ownership issued in beneficiary form shall include after the name of the owner, or after the names of multiple owners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

4. (1) During the lifetime of a sole owner and during the lifetime of all multiple owners, or prior to the death of the last surviving multiple owner, the signature or consent of the beneficiary or beneficiaries shall not be required for any transaction relating to the manufactured home for which a certificate of ownership in beneficiary form has been issued.

(2) A certificate of ownership in beneficiary form may be revoked or the beneficiary or beneficiaries changed at any time before the death of a sole owner or the last surviving multiple owner only by the following methods:

(a) By a sale of the manufactured home with proper assignment and delivery of the certificate of ownership to another person; or

(b) By filing an application to reissue the certificate of ownership with no designation of a beneficiary or with the designation of a different beneficiary or beneficiaries with the director of revenue in proper form and accompanied by the payment of the fee for an original certificate of ownership.

(3) The beneficiary's or beneficiaries' interest in the manufactured home at death of the owner or surviving owner shall be subject to any contract of sale, assignment of ownership or security interest to which the owner or owners of the manufactured home were subject during their lifetime.

(4) The designation of a beneficiary or beneficiaries in a certificate of ownership issued in beneficiary form may not be changed or revoked by a will, any other instrument, or a change in circumstances, or otherwise be changed or revoked except as provided by subdivision (2) of this subsection.

5. (1) On proof of death of one of the owners of two or more multiple owners, or of a sole owner, surrender of the outstanding certificate of ownership, and on application and payment of the fee for an original certificate of ownership, the director of revenue shall issue a new certificate of ownership for the manufactured home to the surviving owner or owners or, if none, to the surviving beneficiary or beneficiaries, subject to any outstanding security interest; and the current valid certificate of number shall be so transferred. If the surviving beneficiary or beneficiaries makes a request of the director of revenue, the director may allow the beneficiary or beneficiaries to make one assignment of title.

(2) The director of revenue may rely on a death certificate or record or report that constitutes prima facie proof or evidence of death under subdivisions (1) and (2) of section 472.290, RSMo.

(3) The transfer of a manufactured home at death pursuant to this section is not to be considered as testamentary, or to be subject to the requirements of section 473.087, RSMo, or section 474.320, RSMo.

6. Notwithstanding the foregoing, the director of revenue shall not issue a certificate of ownership to a manufactured home to which there has been recorded an affidavit of affixation under section 442.015 unless with respect to the same manufactured home there has been recorded an affidavit of severance under section 442.015.

[700.530. RIGHTS OF SECURED PARTIES. — The provisions of sections 700.525 to 700.539 shall not affect the right of a secured party to take possession of, and title to, a manufactured home pursuant to section 400.9-503, RSMo, section 700.386 or otherwise as allowed by contract or law.]

[700.531. DIRECTOR TO NOTIFY OWNER OF RECORD OF MANUFACTURED HOME AND ANY HOLDER OF SECURITY INTEREST — NOTICE CONTENT. — The director of revenue shall notify the owner of record of the manufactured home and any holder of a security interest in the manufactured home of its status of abandonment, the name and business address of the landlord

seeking possession of the manufactured home, and the right of the landlord to seek title to the manufactured home pursuant to sections 700.525 to 700.541 if such manufactured home remains abandoned or if the owner of record of the manufactured home and any holder of a security interest in the manufactured home does not respond to the notice. The notice shall be given within fifteen working days of the receipt of the application of the landlord pursuant to subsection 2 of section 700.527.]

[700.533. OWNER OF MANUFACTURED HOME OR HOLDER OF SECURITY INTEREST MAY CLAIM TITLE, REQUIREMENTS. — The owner of such manufactured home or the holder of a valid security interest therein which is in default may claim title to it from the landlord seeking possession of the manufactured home upon proof of ownership or valid security interest which is in default and payment of all reasonable rents due and owing to the landlord.]

[700.535. OWNER OF MANUFACTURED HOME MAY VOLUNTARILY RELINQUISH CLAIM OR RELINQUISH BY FAILURE TO RESPOND TO NOTICE — RIGHT TO RECLAIM, REQUIREMENT. — If the manufactured home is titled in Missouri, the valid owner of the manufactured home or the holder of a valid security interest therein may voluntarily relinquish any claim to the manufactured home by affirmatively declaring such relinquishment or by failing to respond to the notice required by section 700.531 within thirty days of the mailing or delivery of such notice by the director of revenue.]

[700.537. LIENHOLDER MAY REPOSSESS ABANDONED HOME, REQUIREMENT — NOTICE FORM PROVIDED BY DIRECTOR OF REVENUE. — The lienholder of an abandoned manufactured home may repossess an abandoned manufactured home by notifying by registered mail, postage prepaid, the owner if known, and any lienholders of record, at their last known addresses, that application for a certificate of title will be made unless the owner or lienholder of record makes satisfactory arrangements with the owner of real property upon which such abandoned manufactured home is situated within thirty days of the mailing of the notice. This notice shall be supplied by the use of a form designed and provided by the director of revenue.]

[700.539. CERTIFICATE OF TITLE, APPLICATION BY LIENHOLDER MAY BE MADE WHEN, REQUIREMENTS, FEE — DIRECTOR TO ISSUE, WHEN. — 1. Within thirty days after the notification form required by section 700.537 has been mailed, and the owner or lienholder has made satisfactory arrangements with the owner of real property, the lienholder who sent notification pursuant to sections 700.525 to 700.541 may apply to the director of revenue for a certificate of title. The application shall be accompanied by:

- (1) An affidavit of the lienholder that he is in compliance with all requirements of sections 700.525 to 700.541;
- (2) A copy of the receipt indicating that the owner or lienholder of record has received the notice required by sections 700.525 to 700.541;
- (3) A fee as required by the director of revenue by rule.

2. Upon proof of the foregoing by proper affidavit and upon compliance with all requirements of sections 700.525 to 700.541, the director of revenue shall, if requested, issue a new certificate of title to the lienholder in possession within fifteen working days after request.]

SECTION B. EFFECTIVE DATE. — The repeal of sections 700.530, 700.531, 700.533, 700.535, 700.537, and 700.539, the repeal and reenactment of sections 137.115, 362.105, 365.020, 365.200, 369.229, 370.300, 400.9-303, 400.9-311, 408.015, 408.250, 441.005, 442.010, 513.010, 700.010, 700.100, 700.111, 700.320, 700.350, 700.360, 700.370, 700.375,

700.385, 700.525, 700.527, 700.529, and 700.630, and the enactment of sections 442.015, 700.526, and 700.528, of this act shall become effective March 1, 2011.

Approved July 7, 2010

SB 644 [SCS SB 644]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions of law regarding certain taxes to fund tourism and convention centers

AN ACT to repeal sections 67.1000, 67.1003, 67.1360, 67.1361, 67.2000, and 70.220, RSMo, and to enact in lieu thereof six new sections relating to taxes to fund tourism and convention centers.

SECTION

- A. Enacting clause.
- 67.1000. Transient guests to pay tax on sleeping rooms in hotels and motels, purpose to fund convention and visitors bureau, any county and certain cities — limitation on tax, Jefferson City.
- 67.1003. Transient guest tax on hotels and motels in counties and cities meeting a room requirement or a population requirement, amount, issue submitted to voters, ballot language.
- 67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
- 67.1361. Tax on charges for sleeping rooms for certain counties and cities (Buchanan County and City of St. Joseph).
- 67.2000. Creation of an exhibition center and recreational facility district, petition, hearing, ballot form — board of trustees, powers — trust fund created — sales tax authorization, procedure — dissolution of district (Buchanan, Caldwell, Camden, Clinton, Cole, Daviess, DeKalb, Greene, Jefferson, Miller, Morgan, Newton, and Wright counties).
- 70.220. Political subdivisions may cooperate with each other, with other states, the United States or private persons — tax distribution agreement, authorized for certain counties and cities (Buchanan County and city of St. Joseph; Greene County and city of Springfield).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.1000, 67.1003, 67.1360, 67.1361, 67.2000, and 70.220, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 67.1000, 67.1003, 67.1360, 67.1361, 67.2000, and 70.220, to read as follows:

67.1000. TRANSIENT GUESTS TO PAY TAX ON SLEEPING ROOMS IN HOTELS AND MOTELS, PURPOSE TO FUND CONVENTION AND VISITORS BUREAU, ANY COUNTY AND CERTAIN CITIES—LIMITATION ON TAX, JEFFERSON CITY. — 1. The governing body of any county or of any city which is the county seat of any county or which now or hereafter has a population of more than three thousand five hundred inhabitants and which has heretofore been authorized by the general assembly, or of any other city which has a population of more than eighteen thousand and less than forty-five thousand inhabitants located in a county of the first classification with a population over two hundred thousand adjacent to a county of the first classification with a population over nine hundred thousand, may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at an election permitted under section 115.123, RSMo, a proposal to authorize the governing body of the city or county to impose a tax under the provisions of this

section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city or county has contracted, and which is established for the purpose of promoting the city or county as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.

2. In any county of the third classification without a township form of government and with more than forty-one thousand one hundred but fewer than forty-one thousand two hundred inhabitants, "transient guests", as used in this section and section 67.1002, means a person or persons who occupy a room or rooms in a hotel or motel for ninety days or less during any calendar quarter.

3. **Provisions of this section to the contrary notwithstanding, the governing body of any home rule city with more than thirty-nine thousand six hundred but fewer than thirty-nine thousand seven hundred inhabitants and partially located in any county of the first classification with more than seventy-one thousand three hundred but fewer than seventy-one thousand four hundred inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city, which shall be not more than seven percent per occupied room per night, except that such tax shall not become effective unless the governing body of such city submits to the voters of the city at an election permitted under section 115.123, a proposal to authorize the governing body of the city to impose a tax under the provisions of this section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city has contracted, and which is established for the purpose of promoting the city as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.**

67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of the following cities and counties may impose a tax as provided in this section:

(1) Any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county;

[(1)] (2) A county of the third classification with a population of more than seven thousand but less than seven thousand four hundred inhabitants;

[(2) or] (3) A third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand;

[(3) or] (4) A county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand;

[(4) or] (5) Any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand;

[(5) or] (6) Any city of the third classification with more than ten thousand five hundred but fewer than ten thousand six hundred inhabitants;

[(6) or] (7) Any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants;

(8) Any city of the third classification with more than ten thousand eight hundred but fewer than ten thousand nine hundred inhabitants and located in more than one county.

2. The governing body of any city or county listed in subsection 1 of this section may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

[2.] **3.** Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed in any city or county already imposing such tax pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which and where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.

[3.] **4.** The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

☐ YES

☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

[4.] **5.** As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — 1. The governing body of **the following cities and counties may impose a tax as provided in this section:**

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification

without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants;

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants;

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

(27) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(28) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county through the creation of a tourism district which may include, in addition to the geographic area of such city, the area encompassed by the portion of the school district, located within a county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, having an average daily attendance for school year 2005-06 between one thousand eight hundred and one thousand nine hundred;

(29) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(30) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants;

(31) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants; [or]

(32) Any city of the fourth classification with more than three thousand eight hundred but fewer than three thousand nine hundred inhabitants and located in any county of the first classification with more than thirty-nine thousand seven hundred but fewer than thirty-nine thousand eight hundred inhabitants;

(33) Any county of the third classification without a township form of government and with more than twelve thousand one hundred but fewer than twelve thousand two hundred inhabitants.

2. The governing body of any city or county listed in subsection 1 of this section may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law

and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

67.1361. TAX ON CHARGES FOR SLEEPING ROOMS FOR CERTAIN COUNTIES AND CITIES (BUCHANAN COUNTY AND CITY OF ST. JOSEPH). — 1. The governing body of any county of the first classification without a charter form of government and with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants and the governing body of any home rule city with more than seventy-three thousand nine hundred but less than seventy-four thousand inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than eight percent per occupied room or slip per night, except that such tax shall not become effective unless the governing body of the county or city submits to the voters of the county or city at a state general, primary or special election, a proposal to authorize the governing body of the county or city to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county for funding the promotion of tourism and convention facilities **including capital expenditures therefor**. Such tax shall be stated separately from all other charges and taxes.

2. Any tax imposed by a county pursuant to subsection 1 of this section shall apply only to unincorporated areas of such county.

3. The question shall be submitted in substantially the following form:

Shall the (city or county) levy a tax of percent on each sleeping room or campsite occupied and rented by transient guests and any docking facility which rents slips to recreational boats which are used by transients for sleeping in the (city or county), where the proceeds of which shall be expended for promotion of tourism and convention facilities?

☐ YES

☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body for the city or county shall have no power to impose the tax authorized by this section unless and until the governing body of the city or county again submits the question to the qualified voters of the city or county and such question is approved by a majority of the qualified voters voting on the question.

4. On and after the effective date of any tax authorized under the provisions of this section, the city or county may adopt one of the two following provisions for the collection and administration of the tax:

(1) The city or county may adopt rules and regulations for the internal collection of such tax by the city or county officers usually responsible for collection and administration of city or county taxes; or

(2) The city or county enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in this section. In the event any city or county enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement and operation of such tax, and the director of revenue shall collect the additional tax authorized under the provisions of this section. The tax authorized under the provisions of this section shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director

of revenue, and the director of revenue shall retain an amount not to exceed one percent for cost of collection.

5. If a tax is imposed by a city or county under this section, the city or county may collect a penalty of one percent and interest not to exceed two percent per month on unpaid taxes which shall be considered delinquent thirty days after the last day of each quarter.

6. As used in this section "transient guests" means a person or persons who occupy room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.2000. CREATION OF AN EXHIBITION CENTER AND RECREATIONAL FACILITY DISTRICT, PETITION, HEARING, BALLOT FORM — BOARD OF TRUSTEES, POWERS — TRUST FUND CREATED — SALES TAX AUTHORIZATION, PROCEDURE — DISSOLUTION OF DISTRICT (BUCHANAN, CALDWELL, CAMDEN, CLINTON, COLE, DAVIESS, DEKALB, GREENE, JEFFERSON, MILLER, MORGAN, NEWTON, AND WRIGHT COUNTIES). — 1. This section shall be known as the "Exhibition Center and Recreational Facility District Act".

2. [Whenever not less than fifty owners of real property located within] **An exhibition center and recreational facility district may be created under this section in the following counties:**

(1) Any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants[, or];

(2) Any county of the first classification with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants[, or];

(3) Any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants[, or];

(4) Any county of the second classification with more than fifty-two thousand six hundred but less than fifty-two thousand seven hundred inhabitants[, or];

(5) Any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants[, or];

(6) Any county of the third classification without a township form of government and with more than seventeen thousand nine hundred but less than eighteen thousand inhabitants[, or];

(7) Any county of the first classification with more than thirty-seven thousand but less than thirty-seven thousand one hundred inhabitants[, or];

(8) Any county of the third classification without a township form of government and with more than twenty-three thousand five hundred but less than twenty-three thousand six hundred inhabitants[, or];

(9) Any county of the third classification without a township form of government and with more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants[, or];

(10) Any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred inhabitants[.];

(11) **Any county of the third classification with a township form of government and with more than eight thousand nine hundred but fewer than nine thousand inhabitants;**

(12) **Any county of the third classification without a township form of government and with more than eighteen thousand nine hundred but fewer than nineteen thousand inhabitants;**

(13) **Any county of the third classification with a township form of government and with more than eight thousand but fewer than eight thousand one hundred inhabitants;**

(14) **Any county of the third classification with a township form of government and with more than eleven thousand five hundred but fewer than eleven thousand six hundred inhabitants.**

3. **Whenever not less than fifty owners of real property located within any county listed in subsection 2 of this section** desire to create an exhibition center and recreational facility district, the property owners shall file a petition with the governing body of each county located

within the boundaries of the proposed district requesting the creation of the district. The district boundaries may include all or part of the counties described in this section. The petition shall contain the following information:

- (1) The name and residence of each petitioner and the location of the real property owned by the petitioner;
- (2) A specific description of the proposed district boundaries, including a map illustrating the boundaries; and
- (3) The name of the proposed district.

[3.] 4. Upon the filing of a petition pursuant to this section, the governing body of any county described in this section may, by resolution, approve the creation of a district. Any resolution to establish such a district shall be adopted by the governing body of each county located within the proposed district, and shall contain the following information:

- (1) A description of the boundaries of the proposed district;
- (2) The time and place of a hearing to be held to consider establishment of the proposed district;
- (3) The proposed sales tax rate to be voted on within the proposed district; and
- (4) The proposed uses for the revenue generated by the new sales tax.

[4.] 5. Whenever a hearing is held as provided by this section, the governing body of each county located within the proposed district shall:

- (1) Publish notice of the hearing on two separate occasions in at least one newspaper of general circulation in each county located within the proposed district, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;
- (2) Hear all protests and receive evidence for or against the establishment of the proposed district; and
- (3) Rule upon all protests, which determinations shall be final.

[5.] 6. Following the hearing, if the governing body of each county located within the proposed district decides to establish the proposed district, it shall adopt an order to that effect; if the governing body of any county located within the proposed district decides to not establish the proposed district, the boundaries of the proposed district shall not include that county. The order shall contain the following:

- (1) The description of the boundaries of the district;
- (2) A statement that an exhibition center and recreational facility district has been established;
- (3) The name of the district;
- (4) The uses for any revenue generated by a sales tax imposed pursuant to this section; and
- (5) A declaration that the district is a political subdivision of the state.

[6.] 7. A district established pursuant to this section may, at a general, primary, or special election, submit to the qualified voters within the district boundaries a sales tax of one-fourth of one percent, for a period not to exceed twenty-five years, on all retail sales within the district, which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities. The ballot of submission shall be in substantially the following form:

Shall the (name of district) impose a sales tax of one-fourth of one percent to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities, for a period of (insert number of years)?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast in the portion of any county that is part of the proposed district favor the proposal, then the sales tax shall become effective in that portion of the county that is part of the proposed district on the first day of the first calendar quarter immediately following the election. If a majority of the votes cast in the portion of a county that is a part of the proposed district oppose the proposal, then that portion of such county shall not impose the sales tax authorized in this section until after the county governing body has submitted another such sales tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a sales tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters pursuant to this section sooner than twelve months from the date of the last proposal submitted pursuant to this section. If the qualified voters in two or more counties that have contiguous districts approve the sales tax proposal, the districts shall combine to become one district.

[7.] 8. There is hereby created a board of trustees to administer any district created and the expenditure of revenue generated pursuant to this section consisting of four individuals to represent each county approving the district, as provided in this subsection. The governing body of each county located within the district, upon approval of that county's sales tax proposal, shall appoint four members to the board of trustees; at least one shall be an owner of a nonlodging business located within the taxing district, or their designee, at least one shall be an owner of a lodging facility located within the district, or their designee, and all members shall reside in the district except that one nonlodging business owner, or their designee, and one lodging facility owner, or their designee, may reside outside the district. Each trustee shall be at least twenty-five years of age and a resident of this state. Of the initial trustees appointed from each county, two shall hold office for two years, and two shall hold office for four years. Trustees appointed after expiration of the initial terms shall be appointed to a four-year term by the governing body of the county the trustee represents, with the initially appointed trustee to remain in office until a successor is appointed, and shall take office upon being appointed. Each trustee may be reappointed. Vacancies shall be filled in the same manner in which the trustee vacating the office was originally appointed. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership. Trustees may be removed if:

- (1) By a two-thirds vote, the board moves for the member's removal and submits such motion to the governing body of the county from which the trustee was appointed; and
- (2) The governing body of the county from which the trustee was appointed, by a majority vote, adopts the motion for removal.

[8.] 9. The board of trustees shall have the following powers, authority, and privileges:

- (1) To have and use a corporate seal;
- (2) To sue and be sued, and be a party to suits, actions, and proceedings;
- (3) To enter into contracts, franchises, and agreements with any person or entity, public or private, affecting the affairs of the district, including contracts with any municipality, district, or state, or the United States, and any of their agencies, political subdivisions, or instrumentalities, for the funding, including without limitation interest rate exchange or swap agreements, planning, development, construction, acquisition, maintenance, or operation of a single exhibition center and recreational facilities or to assist in such activity. "Recreational facilities" means locations explicitly designated for public use where the primary use of the facility involves participation in hobbies or athletic activities;
- (4) To borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property and income of the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property of the district, which may be pledged, assigned, mortgaged,

or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine;

(5) To acquire, transfer, donate, lease, exchange, mortgage, and encumber real and personal property in furtherance of district purposes;

(6) To refund any bonds, notes, or other obligations of the district without an election. The terms and conditions of refunding obligations shall be substantially the same as those of the original issue, and the board shall provide for the payment of interest at not to exceed the legal rate, and the principal of such refunding obligations in the same manner as is provided for the payment of interest and principal of obligations refunded;

(7) To have the management, control, and supervision of all the business and affairs of the district, and the construction, installation, operation, and maintenance of district improvements therein; to collect rentals, fees, and other charges in connection with its services or for the use of any of its facilities;

(8) To hire and retain agents, employees, engineers, and attorneys;

(9) To receive and accept by bequest, gift, or donation any kind of property;

(10) To adopt and amend bylaws and any other rules and regulations not in conflict with the constitution and laws of this state, necessary for the carrying on of the business, objects, and affairs of the board and of the district; and

(11) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted by this section.

[9.] **10.** There is hereby created the "Exhibition Center and Recreational Facility District Sales Tax Trust Fund", which shall consist of all sales tax revenue collected pursuant to this section. The director of revenue shall be custodian of the trust fund, and moneys in the trust fund shall be used solely for the purposes authorized in this section. Moneys in the trust fund shall be considered nonstate funds pursuant to section 15, article IV, Constitution of Missouri. The director of revenue shall invest moneys in the trust fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the trust fund. All sales taxes collected by the director of revenue pursuant to this section on behalf of the district, less one percent for the cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in the trust fund. The director of revenue shall keep accurate records of the amount of moneys in the trust fund which was collected in the district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of the officers of each district and the general public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district. The director of revenue may authorize refunds from the amounts in the trust fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of the district.

[10.] **11.** The sales tax authorized by this section is in addition to all other sales taxes allowed by law. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, apply to the sales tax imposed pursuant to this section.

[11.] **12.** Any sales tax imposed pursuant to this section shall not extend past the initial term approved by the voters unless an extension of the sales tax is submitted to and approved by the qualified voters in each county in the manner provided in this section. Each extension of the sales tax shall be for a period not to exceed twenty years. The ballot of submission for the extension shall be in substantially the following form:

Shall the (name of district) extend the sales tax of one-fourth of one percent for a period of (insert number of years) years to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast favor the extension, then the sales tax shall remain in effect at the rate and for the time period approved by the voters. If a sales tax extension is not approved, the district may submit another sales tax proposal as authorized in this section, but the district shall not submit such a proposal to the voters sooner than twelve months from the date of the last extension submitted.

[12.] **13.** Once the sales tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the sales tax. The sales tax shall not be abolished or terminated while the district has any financing or other obligations outstanding; provided that any new financing, debt, or other obligation or any restructuring or refinancing of an existing debt or obligation incurred more than ten years after voter approval of the sales tax provided in this section or more than ten years after any voter-approved extension thereof shall not cause the extension of the sales tax provided in this section or cause the final maturity of any financing or other obligations outstanding to be extended. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities. If the district abolishes the sales tax, the district shall notify the director of revenue of the action at least ninety days before the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the sales tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the sales tax in the district, the director of revenue shall remit the balance in the account to the district and close the account of the district. The director of revenue shall notify the district of each instance of any amount refunded or any check redeemed from receipts due the district.

[13.] **14.** In the event that the district is dissolved or terminated by any means, the governing bodies of the counties in the district shall appoint a person to act as trustee for the district so dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and subscribe an oath to faithfully discharge the duties of the office, and shall give bond with sufficient security, approved by the governing bodies of the counties, to the use of the dissolved or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of the district, shall pay over to the county treasurer of each county in the district and take receipt for all remaining moneys in amounts based on the ratio the levy of each county bears to the total levy for the district in the previous three years or since the establishment of the district, whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver to the clerk of the governing body of any county in the district all books, papers, records, and deeds belonging to the dissolved district.

70.220. POLITICAL SUBDIVISIONS MAY COOPERATE WITH EACH OTHER, WITH OTHER STATES, THE UNITED STATES OR PRIVATE PERSONS — TAX DISTRIBUTION AGREEMENT,

AUTHORIZED FOR CERTAIN COUNTIES AND CITIES (BUCHANAN COUNTY AND CITY OF ST. JOSEPH; GREENE COUNTY AND CITY OF SPRINGFIELD). — 1. Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision.

2. Any municipality or political subdivision of this state may contract with one or more adjacent municipalities or political subdivisions to share the tax revenues of such cooperating entities that are generated from real property and the improvements constructed thereon, if such real property is located within the boundaries of either or both municipalities or subdivisions and within three thousand feet of a common border of the contracting municipalities or political subdivisions. The purpose of such contract shall be within the scope of powers of each municipality or political subdivision. Municipalities or political subdivisions separated only by a public street, easement, or right-of-way shall be considered to share a common border for purposes of this subsection.

3. **Any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants may contract with any county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants to share tax revenues for the purpose of promoting tourism and the construction, maintenance, and improvement of convention center and recreational facilities. In the event an agreement for the distribution of tax revenues is entered into between a county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants and a home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants, then all revenue received from such taxes shall be distributed in accordance with the terms of said agreement. For purposes of this subsection, the term "tax revenues" shall include tax revenues generated from the imposition of a transient guest tax imposed under the provisions of section 67.1361.**

4. If any contract or cooperative action entered into under this section is between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, such contract or cooperative action shall be approved by the governing body of the unit of government in which such elective or appointive official resides.

[4.] 5. In the event an agreement for the distribution of tax revenues is entered into between a county of the first classification without a charter form of government and a constitutional charter city with a population of more than one hundred forty thousand that is located in said county prior to a vote to authorize the imposition of such tax, then all revenue received from such tax shall be distributed in accordance with said agreement for so long as the tax remains in effect or until the agreement is modified by mutual agreement of the parties.

Approved July 8, 2010

SB 649 [SB 649]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires the Governor to issue an annual proclamation designating March 12th as "Girl Scout Day"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of Girl Scout day.

SECTION

A. Enacting clause.

9.167. Girl Scout Day to be proclaimed on March 12.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.167, to read as follows:

9.167. GIRL SCOUT DAY TO BE PROCLAIMED ON MARCH 12. — The governor shall annually issue a proclamation setting apart the twelfth day of March as "Girl Scout Day", and recommending to the people of the state that the day be appropriately observed in recognition of the Girl Scout program which seeks to promote the social welfare of young women, build self-esteem, and teach values such as honesty, fairness, courage, compassion, character, sisterhood, confidence, and citizenship through activities including camping, community service, learning first aid, and earning badges by acquiring practical skills.

Approved June 29, 2010

SB 733 [CCS HCS SCS SB 733]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions of the Bright Flight Scholarship Program

AN ACT to repeal sections 173.250, 173.1105, and 173.1108, RSMo, and to enact in lieu thereof four new sections relating to higher education, with an emergency clause for a certain section.

SECTION

A. Enacting clause.

173.250. Higher education academic scholarship program, definitions, board to administer — requirements, amounts — transfer, withdrawal, illness or disability of student.

173.1105. Award amounts, minimums and maximums — adjustment in awards, when.

173.1108. Inapplicability of sunset act.

173.1205. Ownership or membership interest in entities, not deemed governmental or quasi-governmental bodies, when.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 173.250, 173.1105, and 173.1108, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 173.250, 173.1105, 173.1108, and 173.1205, to read as follows:

173.250. HIGHER EDUCATION ACADEMIC SCHOLARSHIP PROGRAM, DEFINITIONS, BOARD TO ADMINISTER — REQUIREMENTS, AMOUNTS — TRANSFER, WITHDRAWAL, ILLNESS OR DISABILITY OF STUDENT. — 1. There is hereby established a "Higher Education Academic Scholarship Program" and any moneys appropriated by the general assembly for this program shall be used to provide scholarships for Missouri citizens to attend a Missouri college or university of their choice pursuant to the provisions of this section.

2. The definitions of terms set forth in section [173.205] **173.1102** shall be applicable to such terms as used in this section. [The term "academic scholarship" means an amount of money paid by the state of Missouri to a qualified college or university student who has demonstrated superior academic achievement pursuant to the provisions of this section.] **In addition, the following definitions shall apply:**

(1) "Academic scholarship", an amount of money paid by the state of Missouri to a student pursuant to the provisions of this section;

(2) "ACT", the American College Testing program examination;

(3) "Approved institution", an approved public or approved private institution as defined in section 173.1102;

(4) "Eligible student", an individual who meets the criteria set forth in section 173.1104, excluding the requirements of financial need and undergraduate status and, in addition, meets the following requirements:

(a) Has achieved a qualifying score on the ACT or SAT;

(b) Is a Missouri resident who has completed secondary coursework through graduation from high school or the virtual public school established in section 161.670, receipt of a general education development (GED) diploma, completion of a program of study through homeschooling or any other program of academic instruction that satisfies the compulsory attendance requirement under section 167.031; and

(c) Is enrolled full-time or accepted for full-time enrollment as a postsecondary student at an approved institution during the academic year immediately following the completion of his or her secondary coursework;

(5) "Missouri test-takers", all Missouri high school seniors who take the ACT or the SAT;

(6) "Qualifying score", a composite score on the ACT or the SAT achieved in an eligible student's high school sophomore, junior, or senior year, that is in the top five percent of Missouri test-takers, as established at the beginning of an eligible student's final year of secondary coursework;

(7) "Recipient", an eligible or renewal student who receives an academic scholarship pursuant to this section;

(8) "Renewal student", an eligible student who remains in compliance with the provisions of section 173.1104, maintains continuous enrollment, and makes satisfactory academic degree progress; and

(9) "SAT", the Scholastic Aptitude Test.

3. The coordinating board for higher education shall be the administrative agency for the implementation of the program established by this section, and shall:

(1) Promulgate reasonable rules and regulations for the exercise of its functions and the effectuation of the purposes of this section, including regulations for granting scholarship deferments;

(2) Prescribe the form and the time and method of awarding academic scholarships, and shall supervise the processing thereof; and

(3) Select qualified recipients to receive academic scholarships, make such awards of academic scholarships to qualified recipients and determine the manner and method of payment to the recipient.

4. [A student shall be eligible for initial or renewed academic scholarship if he or she is in compliance with the eligibility requirements set forth in section 173.215 excluding the requirement of financial need and undergraduate status, and in addition meets the following requirements:

(1) Initial academic scholarships shall be offered in the academic year immediately following graduation from high school to Missouri high school seniors whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are in the top five percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school. In the freshman year of college, scholarship recipients are required to maintain status as a full-time student;

(2) Academic scholarships are renewable if the recipient remains in compliance with the applicable provisions of section 173.215 and the recipient makes satisfactory academic degree progress as a full-time student.

5. A student who is enrolled or has been accepted for enrollment as a postsecondary student at an approved private or public institution beginning with the fall 1987, term and who meets the other eligibility requirements for an academic scholarship shall, within the limits of the funds appropriated and made available, be offered an academic scholarship in the amount of two thousand dollars for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are in the top three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school for each fiscal year prior to fiscal year 2011, and, subject to appropriations, three thousand dollars for fiscal year 2011 and every fiscal year thereafter, and one thousand dollars for fiscal year 2011 and every fiscal year thereafter for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are between the top five and three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school, for the first academic year of study, which scholarship shall be renewable in the amount of two thousand dollars for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are in the top three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school for each fiscal year prior to fiscal year 2011, and, subject to appropriations, three thousand dollars for fiscal year 2011 and every fiscal year thereafter, and one thousand dollars for fiscal year 2011 and every fiscal year thereafter for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are between the top five and three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school, annually for the second, third and fourth academic years or as long as the recipient is in compliance with the applicable eligibility requirements set forth in section 173.215, provided those years of study are continuous and the student continues to meet eligibility requirements for the scholarship; provided, however, if a recipient ceases all attendance at an approved public or private institution for the purpose of providing service to a nonprofit organization, a state or federal government agency or any branch of the armed forces of the United States, the recipient shall be eligible for a renewal scholarship upon return to any approved public or private institution, provided the recipient:

(1) Returns to full-time status within twenty-seven months;

(2) Provides verification in compliance with coordinating board for higher education rules that the service to the nonprofit organization was satisfactorily completed and was not compensated other than for expenses or that the service to the state or federal governmental agency or branch of the armed forces of the United States was satisfactorily completed; and

(3) Meets all other requirements established for eligibility to receive a renewal scholarship.

6.] **Eligible students shall be offered academic scholarships in the following amounts and in the following order of priority, within the limits of the funds appropriated and made available:**

(1) **Each eligible student with a qualifying score in the top three percent of all Missouri test-takers shall be offered an academic scholarship of up to three thousand dollars per year. All students in the top three percent shall receive awards of three thousand dollars before any student in the top fourth and fifth percentiles receives any award.**

(2) **Provided sufficient funds are appropriated, each eligible student with a qualifying score in the top fourth and fifth percentiles shall be offered an academic scholarship of up to one thousand dollars per year.**

5. **Eligible students may renew academic scholarships for their second, third, and fourth years of postsecondary education, or as long as the recipient is in compliance with the criteria to be a renewal student.**

6. **If an eligible student is unable to enroll during the first academic year or a renewal student ceases attendance at an approved institution for the purpose of providing service to a nonprofit organization, a state or federal government agency, or any branch of the armed forces of the United States, such student shall be offered an academic scholarship upon enrollment in any approved institution after the completion of their service, if the student meets all other requirements for an initial or renewal award and if the following criteria are met:**

(1) **For an eligible student who cannot attend an approved institution as a result of service to a non-profit organization or the state or federal government, the student returns to full-time status within twenty-seven months and provides verification to the coordinating board for higher education that the service to the nonprofit organization was satisfactorily completed and was not compensated other than for expenses, or that the service to the state or federal government was satisfactorily completed; or**

(2) **For an eligible student who cannot attend an approved institution as a result of military service in the armed forces of the United States, the student returns to full-time status within six months after the eligible student first ceases service to the armed forces and provides verification to the coordinating board for higher education that the military service was satisfactorily completed.**

7. **A recipient of an academic scholarship awarded under this section may transfer from one approved [Missouri public or private] institution to another without losing eligibility for the academic scholarship.**

8. **If a recipient of [the] an academic scholarship at any time withdraws from an approved [private or public] institution so that under the rules and regulations of that institution he or she is entitled to a refund of any tuition, fees or other charges, the institution shall pay the portion of the refund attributable to the academic scholarship for that term to the coordinating board for higher education.**

[7.] 9. **Other provisions of this section to the contrary notwithstanding, if [a recipient] an eligible student has been awarded an initial academic scholarship pursuant to the provisions of this section but is unable to [use the scholarship] attend an approved institution during the first academic year because of illness, disability, pregnancy or other medical need or if a [recipient] renewal student ceases all attendance at an approved [public or private] institution because of illness, disability, pregnancy or other medical need, the recipient shall be eligible for an initial or renewal academic scholarship upon enrollment in or return to any approved [public or private] institution, provided the recipient:**

(1) **Enrolls in or returns to full-time status within twenty-seven months;**

(2) **Provides verification in compliance with coordinating board for higher education rules of sufficient medical evidence documenting an illness, disability, pregnancy or other medical**

need of such person to require that that person will not be able to use the [initial or renewal] academic scholarship during the time period for which it was originally offered; and

(3) Meets all other requirements established for eligibility to receive an [initial or a renewal] academic scholarship.

173.1105. AWARD AMOUNTS, MINIMUMS AND MAXIMUMS—ADJUSTMENT IN AWARDS, WHEN. — 1. [Beginning with the 2007-08 academic year,] An applicant who is an undergraduate postsecondary student at an approved private or public institution and who meets the other eligibility criteria shall be eligible for financial assistance, with a minimum and maximum award amount as follows:

(1) **For academic years 2010-2011, 2011-2012, 2012-2013, and 2013-2014:**

(a) One thousand dollars maximum and three hundred dollars minimum for students attending institutions classified as part of the public two-year sector;

[2] (b) Two thousand one hundred fifty dollars maximum and one thousand dollars minimum for students attending institutions classified as part of the public four-year sector, including Linn State Technical College; and

[3] (c) Four thousand six hundred dollars maximum and two thousand dollars minimum for students attending approved private institutions.

(2) **For the 2014-2015 academic year and subsequent years:**

(a) **One thousand three hundred dollars maximum and three hundred dollars minimum for students attending institutions classified as part of the public two-year sector; and**

(b) **Two thousand eight hundred fifty dollars maximum and one thousand five hundred dollars minimum for students attending institutions classified as part of the public four-year sector, including Linn State Technical College, or approved private institutions.**

2. All students with an expected family contribution of twelve thousand dollars or less shall receive at least the minimum award amount for his or her institution. Maximum award amounts for an eligible student with an expected family contribution above seven thousand dollars shall be reduced by ten percent of the maximum expected family contribution for his or her increment group. Any award amount shall be reduced by the amount of a student's [reimbursement pursuant to section 160.545, RSMo] **payment from the A+ schools program or any successor program to it.** For purposes of this subsection, the term "increment group" shall mean a group organized by expected family contribution in five hundred dollar increments into which all eligible students shall be placed.

3. If appropriated funds are insufficient to fund the program as described, the maximum award shall be reduced across all sectors by the percentage of the shortfall. If appropriated funds exceed the amount necessary to fund the program, the additional funds shall be used to increase the number of recipients by raising the cutoff for the expected family contribution rather than by increasing the size of the award.

4. Every three years, beginning with academic year 2009-10, the award amount may be adjusted to increase no more than the Consumer Price Index for All Urban Consumers (CPI-U), 1982-1984 = 100, not seasonally adjusted, as defined and officially recorded by the United States Department of Labor, or its successor agency, for the previous academic year. The coordinating board shall prepare a report prior to the legislative session for use of the general assembly and the governor in determining budget requests which shall include the amount of funds necessary to maintain full funding of the program based on the baseline established for the program upon the [passage] **effective date** of sections 173.1101 to 173.1107. Any increase in the award amount shall not become effective unless an increase in the amount of money appropriated to the program necessary to cover the increase in award amount is passed by the general assembly.

173.1108. INAPPLICABILITY OF SUNSET ACT. — [Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under sections 173.1101 to 173.1107 shall automatically sunset six years after August 28, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 173.1101 to 173.1107 shall automatically sunset twelve years after the effective date of the reauthorization of sections 173.1101 to 173.1107; and

(3) Sections 173.1101 to 173.1107 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 173.1101 to 173.1107 is sunset] **Section 23.253 of the Missouri sunset act shall not apply to the provisions of sections 173.1101 to 173.1107.**

173.1205. OWNERSHIP OR MEMBERSHIP INTEREST IN ENTITIES, NOT DEEMED GOVERNMENTAL OR QUASI-GOVERNMENTAL BODIES, WHEN. — 1. Notwithstanding any other provision of law, a for-profit or not-for-profit entity in which a public institution of higher education holds an ownership or membership interest shall not be deemed to be a public governmental body, quasi-public governmental body, or part of a public governmental body or quasi-public governmental body or otherwise subject to chapter 610, if such entity is engaged primarily in activities involving current or prospective commercialization of the skills or knowledge of the institution's faculty or of the institution's research, research capabilities, intellectual property, technology, or technological resources, provided that the public institution of higher education maintains as an open record an annual report, available no later than October first each year, identifying:

(1) The name and address of the entity, the amount of funds paid to such entity by the institution, any nonmonetary benefits received by the entity from the institution, and the purpose for which such funds were paid or benefits provided;

(2) The amount of funds received by the institution from such entity; and

(3) Any employees of the institution who received funds or other things of value from such entity and the purpose and amount of such funds or other things of value.

2. This provision shall not be construed to broaden the definition of public governmental body found in section 610.010, nor shall it otherwise be construed to mean, imply, or suggest that any entity constitutes a public governmental body unless such entity meets the definition of that term found in section 610.010.

3. Notwithstanding any other provision of law, meetings, records, and votes may be closed to the extent that they relate to records or information submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal or agreement to license intellectual property or perform sponsored research, in connection with opportunities for or results of collaboration involving students, faculty, or staff, or in connection with activities by the public institution of higher education to promote or pursue economic development and which contain sales projections or other business plan, financial information, or trade secrets the disclosure of which may endanger the competitiveness of a business.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the intellectual property of the state's higher education institutions while permitting its timely development through technology transfer, the enactment of section 173.1205 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the

enactment of section 173.1205 of this act shall be in full force and effect upon its passage and approval.

Approved July 14, 2010

SB 739 [HCS SB 739]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the provisions governing fire department residency requirements

AN ACT to repeal section 320.097, RSMo, and to enact in lieu thereof one new section relating to fire department employee residency requirements.

SECTION

- A. Enacting clause.
320.097. Residency requirements prohibited, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 320.097, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 320.097, to read as follows:

320.097. RESIDENCY REQUIREMENTS PROHIBITED, WHEN. — 1. As used in this section, "fire department" means any agency or organization that provides fire suppression and related activities, including but not limited to fire prevention, rescue, emergency medical services, hazardous material response, dispatching, or special operations to a population within a fixed and legally recorded geographical area.

2. [Upon approval of the board of aldermen,] No employee of a fire department **who has worked for seven years for such department** shall, as a condition of employment, be required to reside within a fixed and legally recorded geographical area of the fire department if the only public school district available to the employee within such fire department's geographical area is a public school district that is or has been unaccredited or provisionally accredited in the last five years of such employee's employment. **Employees who have satisfied the seven-year requirement in this subsection and who choose to reside outside the geographical boundaries of the department shall reside within a one-hour response time.** No charter school shall be deemed a public school for purposes of this section.

3. No employee of a fire department who has not resided in such fire department's fixed and legally recorded geographical area, or who has changed such employee's residency because of conditions described in subsection 2 of this section, shall as a condition of employment be required to reside within the fixed and legally recorded geographical area of the fire department if such school district subsequently becomes fully accredited.

[4. Unless the voters of a city not within a county vote to supersede this section by the same majority needed to change the charter of said city by September 1, 2008, this section shall be in force for the city not within a county. In addition, any employee who resides outside the city will forfeit one percent of his or her salary for the time the employee is not living in the city to offset any lost revenue to the city.

5. The ballot of submission for this authorization shall be in substantially the following form:

Shall (insert name of city) be allowed to prevent fire department employees from paying one percent of their salaries to the city in order to reside outside the city limits when the public school system is or has been unaccredited or provisionally accredited?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".]

Approved June 25, 2010

SB 753 [SB 753]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows county commissions to invest cemetery trust funds in certificates of deposit

AN ACT to repeal section 214.160, RSMo, and to enact in lieu thereof one new section relating to the investment of certain cemetery trust funds.

SECTION

A. Enacting clause.

214.160. Shall invest or loan trust funds.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 214.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 214.160, to read as follows:

214.160. SHALL INVEST OR LOAN TRUST FUNDS. — The county commission shall invest or loan said trust fund or funds only in United States government, state, county or municipal bonds, [or] **certificates of deposit**, first real estate mortgages, or deeds of trust. They shall use the net income from said trust fund or funds or so much thereof as is necessary to support and maintain and beautify any public or private cemetery or any particular part thereof which may be designated by the person, persons or firm or association making said gift or bequest. In maintaining or supporting the cemetery or any particular part or portion thereof the commission shall as nearly as possible follow the expressed wishes of the creator of said trust fund.

Approved July 2, 2010

SB 754 [CCS#2 HCS SCS SB 754]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provision related to cemeteries

AN ACT to repeal sections 193.145, 193.265, 195.080, 208.010, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 301.142, 334.735,

337.528, 338.100, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.710, 344.010, and 344.020, RSMo, and to enact in lieu thereof fifty-two new sections relating to the licensing of certain professions, with penalty provisions.

SECTION

- A. Enacting clause.
- 193.145. Death certificate — electronic system — contents, filing, locale, duties of certain persons, time allowed — certificate marked presumptive, when.
- 193.265. Fees for certification and other services — distribution — services free, when.
- 195.080. Excepted substances — prescription or dispensing limitation on amount of supply, exception — may be increased by physician, procedure.
- 208.010. Eligibility for public assistance, how determined — means test — certain medical assistance benefits to include payment of deductible and coinsurance — prevention of spousal impoverishments, division of assets, community spouse defined — burial lots defined — diversion of institutionalized spouse's income.
- 208.198. Same or similar services, equal reimbursement rate required.
- 214.160. Shall invest or loan trust funds.
- 214.270. Definitions.
- 214.276. Refusal to issue license — notice — hearing.
- 214.277. Injunctions, restraining orders, other court remedies available — venue.
- 214.282. Voidability of contracts, exceptions.
- 214.283. Notification of burial lands — registry of cemeteries to be kept by division — fee may be charged for copies — surveyor locating unregistered cemetery to file with division, form.
- 214.300. Nonendowed cemetery may qualify as endowed, when — minimum care and maintenance fund to be established.
- 214.310. Endowed care and maintenance fund, minimum amount — bond — posting of sign, when, information required.
- 214.320. Deposits in fund required, amount — annual report, form furnished by division — audits may be conducted, when — exemption from chapter 436 requirements, when.
- 214.325. Required deposits — deficiency — effect — penalty.
- 214.330. Endowed care fund held in trust or segregated account — requirements — duties of trustee or independent investment advisor — operator's duties — endowed care fund agreement.
- 214.335. Contributions to endowed care fund for memorial or monument — deficiency, effect of.
- 214.340. Report required — content — oath — filing required.
- 214.345. Sale of cemetery plot — written statement to be given to purchaser — copy of annual report to be available to public.
- 214.360. Private use of trust funds prohibited.
- 214.363. Bankruptcy, assignment for benefit of creditors, endowed care fund exempt.
- 214.365. Cemetery failing to provide maintenance — abandonment or ceasing to operate, division's duties.
- 214.367. Sale of assets, notice required — prospective purchaser of endowed care cemetery, right to recent audit — right to continue operation, notification by division.
- 214.387. Burial merchandise or services, deferral of delivery, when — escrow arrangement — distribution of moneys — cancellation.
- 214.389. Suspension of distribution, when, procedure.
- 214.392. Division of professional registration, duties and powers in regulation of cemeteries — rulemaking authority.
- 214.400. Citation of law.
- 214.410. Violation of law, penalty.
- 214.500. Cemeteries acquired by a city at tax sales or as nuisances may be sold.
- 214.504. No liability for new cemetery operators, when — rights of holders of contracts for burial.
- 214.508. Previous cemetery owner liable, when.
- 214.512. New cemetery owner not liable for deficiencies, exception.
- 214.516. Registration as an endowed care cemetery, when — compliance with endowed care cemetery law required.
- 214.550. Scatter gardens, operation by churches maintaining religious cemeteries — maintenance of garden and records, duty of operator.
- 301.142. Definitions — plates for disabled and placard for windshield, issued when — physician statements, requirements — death of disabled person, effect — lost or stolen placard, replacement of, fee — recertification and review by director, when — penalties for certain fraudulent acts.
- 334.735. Definitions — rules — scope of practice — prohibited activities — board of healing arts to administer licensing program — supervision agreements — duties and liability of physicians.
- 337.528. Confidentiality of complaint documentation, when — destruction of information permitted, when.
- 338.100. Records required to be kept — requirements.
- 339.010. Definitions — applicability of chapter.
- 339.020. Brokers and salespersons, unlawful to act without license.
- 339.030. Business entities may be licensed, when, fee.

- 339.040. Licenses granted to whom — examination — qualifications — fee — temporary broker's license, when — renewal, requirements.
- 339.080. Denial of application or license, when, notice — hearing.
- 339.110. Refusal of licenses, when.
- 339.160. Real estate brokers and salespersons may not bring legal action for compensation unless licensed.
- 339.170. Penalty for violation.
- 339.710. Definitions.
- 339.845. Notice of delinquent taxes to be sent by commission.
- 344.010. Definitions.
- 344.020. License required — separate license for assisted living facilities administrators, limitations of license.
- 630.575. Council created, members, duties, terms, meetings.
- 630.580. Education and awareness programs established — cooperation of state agencies.
- 214.290. Minimum endowed care and maintenance fund on election.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 193.145, 193.265, 195.080, 208.010, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 301.142, 334.735, 337.528, 338.100, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.710, 344.010, and 344.020, are repealed and fifty-two new sections enacted in lieu thereof, to be known as sections 193.145, 193.265, 195.080, 208.010, 208.198, 214.160, 214.270, 214.276, 214.277, 214.282, 214.283, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.389, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 301.142, 334.735, 337.528, 338.100, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.710, 339.845, 344.010, 344.020, 630.575, and 630.580, to read as follows:

193.145. DEATH CERTIFICATE — ELECTRONIC SYSTEM — CONTENTS, FILING, LOCALE, DUTIES OF CERTAIN PERSONS, TIME ALLOWED — CERTIFICATE MARKED PRESUMPTIVE, WHEN. — 1. A certificate of death for each death which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within five days after death and shall be registered if such certificate has been completed and filed pursuant to this section. **All data providers in the death registration process, including but not limited to the state registrar, local registrars, the state medical examiner, county medical examiners, coroners, funeral directors or persons acting as such, embalmers, sheriffs, attending physicians and resident physicians, and the chief medical officers of licensed health care facilities, and other public or private institutions providing medical care, treatment, or confinement to persons shall be required to utilize any electronic death registration system adopted under subsection 1 of section 193.265 within six months of the system being certified by the director of the department of health and senior services, or the director's designee, to be operational and available to all data providers in the death registration process. Nothing in this subsection shall prevent the state registrar from adopting pilot programs or voluntary electronic death registration programs until such time as the system can be certified; however, no such pilot or voluntary electronic death registration program shall prevent the filing of a death certificate with the local registrar or the ability to obtain certified copies of death certificated under subsection 2 of section 193.265 until six months after such certification that the system is operational.**

2. If the place of death is unknown but the dead body is found in this state, the certificate of death shall be completed and filed pursuant to the provisions of this section. The place where the body is found shall be shown as the place of death. The date of death shall be the date on which the remains were found.

3. When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place

where the body is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state but the certificate shall show the actual place of death if such place may be determined.

4. The funeral director or person in charge of final disposition of the dead body shall file the certificate of death. The funeral director or person in charge of the final disposition of the dead body shall obtain or verify:

(1) The personal data from the next of kin or the best qualified person or source available; and

(2) The medical certification from the person responsible for such certification.

5. The medical certification shall be completed, attested to its accuracy either by signature or an electronic process approved by the department, and returned to the funeral director or person in charge of final disposition within seventy-two hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death. In the absence of the physician or with the physician's approval the certificate may be completed and attested to its accuracy either by signature or an approved electronic process by the physician's associate physician, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the case, views the deceased at or after death and death is due to natural causes. The state registrar may approve alternate methods of obtaining and processing the medical certification and filing the death certificate. The Social Security number of any individual who has died shall be placed in the records relating to the death and recorded on the death certificate.

6. When death occurs from natural causes more than thirty-six hours after the decedent was last treated by a physician, the case shall be referred to the county medical examiner or coroner or physician or local registrar for investigation to determine and certify the cause of death. If the death is determined to be of a natural cause, the medical examiner or coroner or local registrar shall refer the certificate of death to the attending physician for such physician's certification. If the attending physician refuses or is otherwise unavailable, the medical examiner or coroner or local registrar shall attest to the accuracy of the certificate of death either by signature or an approved electronic process within thirty-six hours.

7. If the circumstances suggest that the death was caused by other than natural causes, the medical examiner or coroner shall determine the cause of death and shall complete and attest to the accuracy either by signature or an approved electronic process the medical certification within seventy-two hours after taking charge of the case.

8. If the cause of death cannot be determined within seventy-two hours after death, the attending medical examiner or coroner or attending physician or local registrar shall give the funeral director, or person in charge of final disposition of the dead body, notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the medical examiner or coroner, attending physician or local registrar.

9. When a death is presumed to have occurred within this state but the body cannot be located, a death certificate may be prepared by the state registrar upon receipt of an order of a court of competent jurisdiction which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "Presumptive", show on its face the date of registration, and identify the court and the date of decree.

193.265. FEES FOR CERTIFICATION AND OTHER SERVICES — DISTRIBUTION — SERVICES FREE, WHEN. — 1. For the issuance of a certification or copy of a death record, the applicant shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars.

All fees shall be deposited to the state department of revenue. Beginning August 28, 2004, for each vital records fee collected, the director of revenue shall credit four dollars to the general revenue fund, five dollars to the children's trust fund, one dollar shall be credited to the endowed care cemetery audit fund, and three dollars for the first copy of death records and five dollars for birth, marriage, divorce, and fetal death records shall be credited to the Missouri public services health fund established in section 192.900, RSMo. Money in the endowed care cemetery audit fund shall be available by appropriation to the division of professional registration to pay its expenses in administering sections 214.270 to 214.410, RSMo. All interest earned on money deposited in the endowed care cemetery audit fund shall be credited to the endowed care cemetery fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money placed in the endowed care cemetery audit fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the endowed care cemetery audit fund for the preceding fiscal year. The money deposited in the public health services fund under this section shall be deposited in a separate account in the fund, and moneys in such account, upon appropriation, shall be used to automate and improve the state vital records system, and develop and maintain an electronic birth and death registration system [which shall be implemented no later than December 31, 2009]. For any search of the files and records, when no record is found, the state shall be entitled to a fee equal to the amount for a certification of a vital record for a five-year search to be paid by the applicant. For the processing of each legitimation, adoption, court order or recording after the registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a certification of a vital record. Except whenever a certified copy or copies of a vital record is required to perfect any claim of any person on relief, or any dependent of any person who was on relief for any claim upon the government of the state or United States, the state registrar shall, upon request, furnish a certified copy or so many certified copies as are necessary, without any fee or compensation therefor.

2. For the issuance of a certification of a death record by the local registrar, the applicant shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. All fees shall be deposited to the official city or county health agency. A certified copy of a death record by the local registrar can only be issued within twenty-four hours of receipt of the record by the local registrar. Computer-generated certifications of death records may be issued by the local registrar after twenty-four hours of receipt of the records. The fees paid to the official county health agency shall be retained by the local agency for local public health purposes.

195.080. EXCEPTED SUBSTANCES — PRESCRIPTION OR DISPENSING LIMITATION ON AMOUNT OF SUPPLY, EXCEPTION — MAY BE INCREASED BY PHYSICIAN, PROCEDURE. — 1. Except as otherwise in sections 195.005 to 195.425 specifically provided, sections 195.005 to 195.425 shall not apply to the following cases: prescribing, administering, dispensing or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain controlled substances in such combinations of drugs as to prevent the drugs from being readily extracted from such liniments, ointments, or preparations, except that sections 195.005 to 195.425 shall apply to all liniments, ointments, and other preparations that contain coca leaves in any quantity or combination.

2. The quantity of Schedule II controlled substances prescribed or dispensed at any one time shall be limited to a thirty-day supply. The quantity of Schedule III, IV or V controlled substances prescribed or dispensed at any one time shall be limited to a ninety-day supply and shall be prescribed and dispensed in compliance with the general provisions of sections 195.005 to 195.425. The supply limitations provided in this subsection may be increased up to three months if the physician describes on the prescription form or indicates via telephone, fax, or electronic communication to the pharmacy to be entered on or attached to the prescription form

the medical reason for requiring the larger supply. **The supply limitations provided in this subsection shall not apply if the prescription is dispensed directly to a member of the United States armed forces serving outside the United States.**

3. The partial filling of a prescription for a Schedule II substance is permissible as defined by regulation by the department of health and senior services.

208.010. ELIGIBILITY FOR PUBLIC ASSISTANCE, HOW DETERMINED — MEANS TEST — CERTAIN MEDICAL ASSISTANCE BENEFITS TO INCLUDE PAYMENT OF DEDUCTIBLE AND COINSURANCE — PREVENTION OF SPOUSAL IMPOVERISHMENTS, DIVISION OF ASSETS, COMMUNITY SPOUSE DEFINED — BURIAL LOTS DEFINED — DIVERSION OF INSTITUTIONALIZED SPOUSE'S INCOME. — 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the division of family services to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the division of family services; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining the need of a claimant in federally aided programs there shall be disregarded such amounts per month of earned income in making such determination as shall be required for federal participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When federal law or regulations require the exemption of other income or resources, the division of family services may provide by rule or regulation the amount of income or resources to be disregarded.

2. Benefits shall not be payable to any claimant who:

(1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given away or sold a resource within the time and in the manner specified in this subdivision. In determining the resources of an individual, unless prohibited by federal statutes or regulations, there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this subsection, and subsection 5 of this section) any resource or interest therein owned by such individual or spouse within the twenty-four months preceding the initial investigation, or at any time during which benefits are being drawn, if such individual or spouse gave away or sold such resource or interest within such period of time at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits, including but not limited to benefits based on December, 1973, eligibility requirements, as follows:

(a) Any transaction described in this subdivision shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose;

(b) The resource shall be considered in determining eligibility from the date of the transfer for the number of months the uncompensated value of the disposed of resource is divisible by the average monthly grant paid or average Medicaid payment in the state at the time of the

investigation to an individual or on his or her behalf under the program for which benefits are claimed, provided that:

a. When the uncompensated value is twelve thousand dollars or less, the resource shall not be used in determining eligibility for more than twenty-four months; or

b. When the uncompensated value exceeds twelve thousand dollars, the resource shall not be used in determining eligibility for more than sixty months;

(2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes convincing evidence that the uncompensated value of the disposed of resource or any part thereof is no longer possessed or owned by the person to whom the resource was transferred;

(3) Has received, or whose spouse with whom he or she is living has received, benefits to which he or she was not entitled through misrepresentation or nondisclosure of material facts or failure to report any change in status or correct information with respect to property or income as required by section 208.210. A claimant ineligible pursuant to this subsection shall be ineligible for such period of time from the date of discovery as the division of family services may deem proper; or in the case of overpayment of benefits, future benefits may be decreased, suspended or entirely withdrawn for such period of time as the division may deem proper;

(4) Owns or possesses resources in the sum of one thousand dollars or more; provided, however, that if such person is married and living with spouse, he or she, or they, individually or jointly, may own resources not to exceed two thousand dollars; and provided further, that in the case of a temporary assistance for needy families claimant, the provision of this subsection shall not apply;

(5) Prior to October 1, 1989, owns or possesses property of any kind or character, excluding amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMO] **under chapter 436**, or has an interest in property, of which he or she is the record or beneficial owner, the value of such property, as determined by the division of family services, less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually living together with husband or wife, if the value of his or her property, or the value of his or her interest in property, together with that of such husband and wife, exceeds such amount;

(6) In the case of temporary assistance for needy families, if the parent, stepparent, and child or children in the home owns or possesses property of any kind or character, or has an interest in property for which he or she is a record or beneficial owner, the value of such property, as determined by the division of family services and as allowed by federal law or regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMO] **under chapter 436**, one automobile which shall not exceed a value set forth by federal law or regulation and for a period not to exceed six months, such other real property which the family is making a good-faith effort to sell, if the family agrees in writing with the division of family services to sell such property and from the net proceeds of the sale repay the amount of assistance received during such period. If the property has not been sold within six months, or if eligibility terminates for any other reason, the entire amount of assistance paid during such period shall be a debt due the state;

(7) Is an inmate of a public institution, except as a patient in a public medical institution.

3. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the income and resources of a relative or other person living in the home shall be taken into account to the extent the income, resources, support and maintenance are allowed by federal law or regulation to be considered.

4. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the value of burial lots or any amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and subdivision

(5) of subsection 1 of section 436.053, RSMO,] **under chapter 436** shall not be taken into account or considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as defined in section 214.270, RSMo, and any memorial, monument, marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436, RSMo, of an irrevocable prearranged funeral or burial contract receives any public assistance benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in interest [cancel or amend] **transfer, amend, or take any other such actions regarding** the contract so that any person will be entitled to a refund, such refund shall be paid to the state of Missouri [up to the amount of public assistance benefits provided pursuant to this chapter with any remainder to be paid to those persons designated in chapter 436, RSMO] **with any amount in excess of the public assistance benefits provided under this chapter to be refunded by the state of Missouri to the purchaser or his or her successors. In determining eligibility and the amount of benefits to be granted under federally aided programs, the value of any life insurance policy where a seller or provider is made the beneficiary or where the life insurance policy is assigned to a seller or provider, either being in consideration for an irrevocable prearranged funeral contract under chapter 436, shall not be taken into account or considered an asset of the beneficiary of the irrevocable prearranged funeral contract.**

5. In determining the total property owned pursuant to subdivision (5) of subsection 2 of this section, or resources, of any person claiming or for whom public assistance is claimed, there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or any two or more policies or contracts, or any combination of policies and contracts, which provides for the payment of one thousand five hundred dollars or less upon the death of any of the following:

- (1) A claimant or person for whom benefits are claimed; or
- (2) The spouse of a claimant or person for whom benefits are claimed with whom he or she is living. If the value of such policies exceeds one thousand five hundred dollars, then the total value of such policies may be considered in determining resources; except that, in the case of temporary assistance for needy families, there shall be disregarded any prearranged funeral or burial contract, or any two or more contracts, which provides for the payment of one thousand five hundred dollars or less per family member.

6. Beginning September 30, 1989, when determining the eligibility of institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall comply with the provisions of the federal statutes and regulations. As necessary, the division shall by rule or regulation implement the federal law and regulations which shall include but not be limited to the establishment of income and resource standards and limitations. The division shall require:

- (1) That at the beginning of a period of continuous institutionalization that is expected to last for thirty days or more, the institutionalized spouse, or the community spouse, may request an assessment by the division of family services of total countable resources owned by either or both spouses;
- (2) That the assessed resources of the institutionalized spouse and the community spouse may be allocated so that each receives an equal share;
- (3) That upon an initial eligibility determination, if the community spouse's share does not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the community spouse a resource allowance to increase the community spouse's share to twelve thousand dollars;
- (4) That in the determination of initial eligibility of the institutionalized spouse, no resources attributed to the community spouse shall be used in determining the eligibility of the institutionalized spouse, except to the extent that the resources attributed to the community

spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section 1396r-5;

(5) That beginning in January, 1990, the amount specified in subdivision (3) of this subsection shall be increased by the percentage increase in the Consumer Price Index for All Urban Consumers between September, 1988, and the September before the calendar year involved; and

(6) That beginning the month after initial eligibility for the institutionalized spouse is determined, the resources of the community spouse shall not be considered available to the institutionalized spouse during that continuous period of institutionalization.

7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods required and for the reasons specified in 42 U.S.C. Section 1396p.

8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to the provisions of section 208.080.

9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the home of the applicant or recipient when the home is providing shelter to the applicant or recipient, or his or her spouse or dependent child. The division of family services shall establish by rule or regulation in conformance with applicable federal statutes and regulations a definition of the home and when the home shall be considered a resource that shall be considered in determining eligibility.

10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts as determined due pursuant to the applicable provisions of federal regulations pertaining to Title XVIII Medicare Part B, except the applicable Title XIX cost sharing.

11. A "community spouse" is defined as being the noninstitutionalized spouse.

12. An institutionalized spouse applying for Medicaid and having a spouse living in the community shall be required, to the maximum extent permitted by law, to divert income to such community spouse to raise the community spouse's income to the level of the minimum monthly needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall occur before the community spouse is allowed to retain assets in excess of the community spouse protected amount described in 42 U.S.C. Section 1396r-5.

208.198. SAME OR SIMILAR SERVICES, EQUAL REIMBURSEMENT RATE REQUIRED. — Subject to appropriations, the department of social services shall establish a rate for the reimbursement of physicians and optometrists for services rendered to patients under the MO HealthNet program which provides equal reimbursement for the same or similar services rendered.

214.160. SHALL INVEST OR LOAN TRUST FUNDS. — The county commission shall invest or loan said trust fund or funds only in United States government, state, county or municipal bonds, [or] **certificates of deposit**, first real estate mortgages, or deeds of trust. They shall use the net income from said trust fund or funds or so much thereof as is necessary to support and maintain and beautify any public or private cemetery or any particular part thereof which may be designated by the person, persons or firm or association making said gift or bequest. In maintaining or supporting the cemetery or any particular part or portion thereof the commission shall as nearly as possible follow the expressed wishes of the creator of said trust fund.

214.270. DEFINITIONS. — As used in sections 214.270 to 214.410, the following terms mean:

(1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;

(2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

(3) "Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn, outer burial container, or similar article which may contain specific lettering, shape, color, or design as specified by the purchaser;

(4) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;

(5) "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care, maintenance, adornment and administration of a cemetery. Cemetery associations shall be governed by a board of directors. Directors shall serve without compensation;

(6) "Cemetery operator" or "operator", any person who owns, controls, operates or manages a cemetery;

(7) "Cemetery prearranged contract", any contract with a **cemetery or cemetery operator** for [goods and services covered by this chapter which includes a sale of burial merchandise in which delivery of merchandise or a valid warehouse receipt under sections 214.270 to 214.550 is deferred pursuant to written instructions from the purchaser. It shall also mean any contract for goods and services covered by sections 214.270 to 214.550 which includes a sale of burial services to be performed at a future date] **burial merchandise or burial services covered by sections 214.270 to 214.410 which is entered into before the death of the individual for whom the burial merchandise or burial services are intended;**

(8) "Cemetery service" or "burial service", those services performed by a cemetery owner or operator under an endowed care or nonendowed cemetery including setting a monument or marker, setting a tent, excavating a grave, interment, entombment, inurnment, setting a vault, or other related services within the cemetery;

(9) "Columbarium", a building or structure for the inurnment of cremated human remains;

(10) "Community mausoleum", a mausoleum containing a substantial area of enclosed space and having either a heating, ventilating or air conditioning system;

(11) "Department", department of insurance, financial institutions and professional registration;

(12) "Developed acreage", the area which has been platted into grave spaces and has been developed with roads, paths, features, or ornamentations and in which burials can be made;

(13) "Director", director of the division of professional registration;

(14) "Division", division of professional registration;

(15) "Endowed care", the maintenance, repair and care of all burial space subject to the endowment within a cemetery, including any improvements made for the benefit of such burial space. Endowed care shall include the general overhead expenses needed to accomplish such maintenance, repair, care and improvements. Endowed care shall include the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;

(16) "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents itself as offering endowed care and which complies with the provisions of sections 214.270 to 214.410;

(17) "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent, to include any income therefrom, impressed with a trust by the terms of any gift, grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust,

or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and accepted by any endowed care cemetery operator or his agent. This definition includes the terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like term;

(18) "Escrow account", an account established in lieu of an endowed care fund as provided under section 214.330 or an account used to hold deposits under section 214.387;

(19) "Escrow agent", an attorney, title company, certified public accountant or other person authorized by the division to exercise escrow powers under the laws of this state;

(20) "Escrow agreement", an agreement subject to approval by the office between an escrow agent and a cemetery operator or its agent or related party with common ownership, to receive and administer payments under cemetery prearranged contracts sold by the cemetery operator;

(21) "Family burial ground", a cemetery in which no burial space is sold to the public and in which interments are restricted to persons related by blood or marriage;

(22) "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is restricted solely to its members and their immediate families;

(23) "Garden mausoleum", a mausoleum without a substantial area of enclosed space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

(24) "Government cemetery", or "municipal cemetery", a cemetery owned, operated, controlled or managed by the federal government, the state or a political subdivision of the state, including a county or municipality or instrumentality thereof;

(25) "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for burial of human remains;

(26) "Human remains", the body of a deceased person in any state of decomposition, as well as cremated remains;

(27) "Inurnment", placing an urn containing cremated remains in a burial space;

(28) "Lawn crypt", a burial vault or other permanent container for a casket which is permanently installed below ground prior to the time of the actual interment. A lawn crypt may permit single or multiple interments in a grave space;

(29) "Mausoleum", a structure or building for the entombment of human remains in crypts;

(30) "Niche", a space in a columbarium used or intended to be used for inurnment of cremated remains;

(31) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section of a cemetery for which no endowed care trust fund has been established in accordance with sections 214.270 to 214.410;

(32) "Office", the office of endowed care cemeteries within the division of professional registration;

(33) "Owner of burial space", a person to whom the cemetery operator or his authorized agent has transferred the right of use of burial space;

(34) "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;

(35) "Registry", the list of cemeteries maintained in the division office for public review. The division may charge a fee for copies of the registry;

(36) "Religious cemetery", a cemetery owned, operated, controlled or managed by any church, convention of churches, religious order or affiliated auxiliary thereof in which the sale of burial space is restricted solely to its members and their immediate families;

(37) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land surface;

(38) "Total acreage", the entire tract which is dedicated to or reserved for cemetery purposes;

(39) "Trustee of an endowed care fund", the separate legal entity **qualified under section 214.330** appointed as trustee of an endowed care fund.

214.276. REFUSAL TO ISSUE LICENSE — NOTICE — HEARING. — 1. The division may refuse to issue or renew any license, required pursuant to sections 214.270 to 214.516 for one or any combination of causes stated in subsection 2 of this section. The division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any license, required by sections 214.270 to 214.516 or any person who has failed to surrender his or her license, for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 214.270 to 214.516;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 214.270 to 214.516, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license, issued pursuant to sections 214.270 to 214.516 or in obtaining permission to take any examination given or required pursuant to sections 214.270 to 214.516;

(4) Obtaining or attempting to obtain any fee, charge or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession regulated by sections 214.270 to 214.516;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 214.270 to 214.516, or any lawful rule or regulation adopted pursuant to sections 214.270 to 214.516;

(7) Impersonation of any person holding a license or allowing any person to use his or her license;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 214.270 to 214.516 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 214.270 to 214.516 who is not registered and currently eligible to practice pursuant to sections 214.270 to 214.516;

(11) Issuance of a license based upon a material mistake of fact;

(12) Failure to display a valid license;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Willfully and through undue influence selling a burial space, cemetery services or merchandise.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the

division may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five years, or may suspend, or revoke the license or permit **or may impose a penalty allowed by subsection 4 of section 214.410**. No new license shall be issued to the owner or operator of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner.

4. [Operators of all existing endowed care or nonendowed care cemeteries shall, prior to August twenty-eighth following August 28, 2001, apply for a license pursuant to this section. All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270 to 214.516 prior to August twenty-eighth following August 28, 2001, shall be granted a license by the division upon receipt of application.

5.] The division may settle disputes arising under subsections 2 and 3 of this section by consent agreement or settlement agreement between the division and the holder of a license. Within such a settlement agreement, the division may singly or in combination impose any discipline or penalties allowed by this section or subsection 4 of section 214.410. Settlement of such disputes shall be entered into pursuant to the procedures set forth in section 621.045, RSMo.

5. Use of the procedures set out in this section shall not preclude the application of any other remedy provided by this chapter.

214.277. INJUNCTIONS, RESTRAINING ORDERS, OTHER COURT REMEDIES AVAILABLE — VENUE. — 1. Upon application by the division, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.

2. [Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3.] Any action brought pursuant to this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

214.282. VOIDABILITY OF CONTRACTS, EXCEPTIONS. — 1. **Each contract sold by a cemetery operator for cemetery services or for grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches, mausoleums, or other receptacles shall be voidable by the purchaser and deemed unenforceable unless:**

(1) **It is in writing;**

(2) **It is executed by a cemetery operator who is in compliance with the licensing provisions of this chapter;**

(3) **It identifies the contract purchaser and identifies the cemetery services or other items to be provided;**

(4) **It identifies the name and address of any trustee or escrow agent that will receive payments made pursuant to the contract under the provisions of sections 214.320, 214.330, or 214.387, if applicable;**

(5) **It contains the name and address of the cemetery operator; and**

(6) It identifies any grounds for cancellation by the purchaser or by the cemetery operator on default of payment.

2. If a cemetery prearranged contract does not substantially comply with the provisions of this section, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys' fees.

214.283. NOTIFICATION OF BURIAL LANDS — REGISTRY OF CEMETERIES TO BE KEPT BY DIVISION — FEE MAY BE CHARGED FOR COPIES — SURVEYOR LOCATING UNREGISTERED CEMETERY TO FILE WITH DIVISION, FORM. — 1. Any person, entity, association, city, town, village, county or political subdivision that purchases, receives or holds any real estate used for the burial of dead human bodies, excluding a family burial ground, shall notify the office of the endowed care cemeteries of the name, location and address of such real estate on a form approved by the office, before October 1, 2010, or within thirty days of purchasing, receiving or holding such land or of being notified by the office of the requirements of this provision. No fee shall be charged for such notification nor shall any penalty be assessed for failure to register. This section shall not be deemed to exempt any operator of an endowed care cemetery or non-endowed care cemetery from being duly licensed as required by this chapter.

2. The division shall establish and maintain a registry of cemeteries and the registry shall be available to the public for review at the division office or copied upon request. The division may charge a fee for copies of the register.

(1) If, in the course of a land survey of property located in this state, a surveyor licensed pursuant to chapter 327, RSMo, locates any cemetery which has not been previously registered, the surveyor shall file a statement with the division regarding the location of the cemetery. The statement shall be filed on a form as defined by division rule. No fee shall be charged to the surveyor for such filing.

(2) Any person, family, group, association, society or county surveyor may submit to the division, on forms provided by the division, the names and locations of any cemetery located in this state for inclusion in the registry. No fee shall be charged for such submissions.

214.300. NONENDOWED CEMETERY MAY QUALIFY AS ENDOWED, WHEN — MINIMUM CARE AND MAINTENANCE FUND TO BE ESTABLISHED. — Any cemetery operator may, after October 13, 1961, qualify to operate a cemetery which has been operated as a nonendowed cemetery for a minimum of two years, as an endowed care cemetery by:

(1) So electing in compliance with section 214.280;

(2) Establishing an endowed care **trust** fund in cash of one thousand dollars for each acre in said cemetery with a minimum of five thousand dollars and a maximum of twenty-five thousand dollars;

(3) Filing the report required by section 214.340.

214.310. ENDOWED CARE AND MAINTENANCE FUND, MINIMUM AMOUNT — BOND — POSTING OF SIGN, WHEN, INFORMATION REQUIRED. — 1. Any cemetery operator who elects to operate a new cemetery as an endowed care cemetery or who represents to the public that perpetual, permanent, endowed, continual, eternal care, care of duration or similar care will be furnished cemetery property sold shall create an endowed care **trust** fund and shall deposit a minimum of twenty-five thousand dollars for cemeteries that have in excess of one hundred burials annually or a minimum of five thousand dollars for cemeteries that have one hundred or less burials annually in such fund before selling or disposing of any burial space in said cemetery, or in lieu thereof such cemetery owner may furnish a surety bond issued by a bonding company or insurance company authorized to do business in this state in the face amount of thirty thousand

dollars, and such bond shall run to the office of endowed care cemeteries for the benefit of the care **trust** funds held by such cemetery. This bond shall be for the purpose of guaranteeing an accumulation of twenty-five thousand dollars in such care **trust** fund and also for the further purpose of assuring that the cemetery owner shall provide annual perpetual or endowment care in an amount equal to the annual reasonable return on a secured cash investment of twenty-five thousand dollars until twenty-five thousand dollars is accumulated in said endowed care **trust** funds, and these shall be the conditions of such surety bond; provided, however, the liability of the principal and surety on the bond shall in no event exceed thirty thousand dollars. Provided further, that whenever a cemetery owner which has made an initial deposit to the endowed care **trust** fund demonstrates to the satisfaction of the administrator of the office of endowed care cemeteries that more than twenty-five thousand dollars has been accumulated in the endowed care **trust** fund, the cemetery owner may petition the administrator of the office of endowed care cemeteries for an order to dissolve the surety bond requirement, so long as at least twenty-five thousand dollars always remains in the endowed care **trust** fund.

2. Construction of a mausoleum, lawn crypt, columbarium or crematorium as part of a cemetery then operated as an endowed care cemetery shall not be considered the establishment of a new cemetery for purposes of this section.

3. Any endowed care cemetery which does not maintain a [fully] **adequately** staffed office in the county in which the cemetery is located shall have prominently displayed on the premises a sign clearly stating the operator's name, address and telephone number. If the operator does not reside in the county in which the cemetery is located, the sign shall also state the name, address and telephone number of a resident of the county who is the authorized agent of the operator or the location of an office of the cemetery which is within ten miles of such cemetery. In jurisdictions where ordinances require signs to meet certain specifications, a weatherproof notice containing the information required by this subsection shall be sufficient.

214.320. DEPOSITS IN FUND REQUIRED, AMOUNT — ANNUAL REPORT, FORM FURNISHED BY DIVISION — AUDITS MAY BE CONDUCTED, WHEN — EXEMPTION FROM CHAPTER 436 REQUIREMENTS, WHEN. — 1. An operator of an endowed care cemetery shall establish and deposit in an endowed care **trust** fund not less than the following amounts for burial space sold or disposed of, with such deposits to the endowed care **trust** fund to be made [semiannually] **monthly** on all burial space that has been fully paid for to the date of deposit:

(1) A minimum of fifteen percent of the gross sales price, or twenty dollars, whichever is greater, for each grave space sold;

(2) A minimum of ten percent of the gross sales price of each crypt or niche sold in a community mausoleum, or a minimum of one hundred dollars for each crypt or [ten dollars for each niche sold in a garden mausoleum] **fifty dollars for each niche sold in a community mausoleum, whichever is greater;**

(3) **A minimum of ten percent of the gross sales price of each crypt or niche sold in a garden mausoleum, or a minimum of one hundred dollars for each crypt or twenty-five dollars for each niche sold in a garden mausoleum, whichever is greater;**

(4) A minimum of [seventy-five dollars per grave space for] **ten percent of the gross sales price of each lawn crypt sold or a minimum of seventy-five dollars, whichever is greater.**

2. Notwithstanding the provisions of subdivision (2) of subsection 1 of this section, a cemetery operator who has made the initial deposit in trust as required by sections 214.270 to 214.410 from his own funds, and not from funds deposited with respect to sales of burial space, may deposit only one-half the minimum amounts set forth in subdivisions (1) and (2) of subsection 1 of this section, until he shall have recouped his entire initial deposit. Thereafter, he shall make the minimum deposits required under subdivisions (1), (2) [and], (3), **and (4)** of subsection 1 of this section.

3. **As required by section 214.340,** each operator of an endowed care cemetery shall[, after August 28, 1990,] file with the division of professional registration, on a form provided by

the division, an annual endowed care trust fund report. The operator of any cemetery representing the cemetery, or any portion of the cemetery, as an endowed care cemetery shall make available to the division for inspection or audit at any reasonable time only those cemetery records and trust fund records necessary to determine whether the cemetery's endowed care **trust** fund is in compliance with sections 214.270 to 214.410. Each cemetery operator who has established a [segregated] **escrow** account pursuant to section [214.385] **214.387** shall make available to the division for inspection or audit at any reasonable time those cemetery records and financial institution records necessary to determine whether the cemetery operator is in compliance with the provisions of section [214.385]. All documents, records, and work product from any inspections or audits performed by or at the direction of the division shall remain in the possession of the division of professional registration and shall not be sent to the state board of embalmers and funeral directors. No charge shall be made for such inspections or audits] **214.387**.

4. [If any endowed care cemetery operator conducts the trust fund accounting and record keeping outside of this state, then such operator shall maintain current and accurate copies of such accounting and record keeping within this state and such copies shall be readily available to the division for inspection or audit purposes.

5.] No cemetery operator shall operate or represent to the public by any title, description, or similar terms that a cemetery provides endowed care unless the cemetery is in compliance with the provisions of sections 214.270 to 214.410.

5. A cemetery operator shall be exempt from the provisions of chapter 436 for the sale of cemetery services or for grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches or mausoleums, outer burial containers or other receptacle. A cemetery operator shall be prohibited from adjusting or establishing the sales price of items with the intent of evading the trusting or escrow provisions of this chapter.

214.325. REQUIRED DEPOSITS — DEFICIENCY — EFFECT — PENALTY. — If the deposits to any endowed care **trust** fund [required by sections 214.270 to 214.410] are less than the total sum required to be set aside and deposited since the effective date of such sections, the cemetery operator shall correct such deficiency by depositing not less than twenty percent of such deficiency each year for five years [following August 28, 1990,] and shall file, on the form provided by the division, a statement outlining the date and amount such deposits were made. If the cemetery operator fails to correct the deficiency **with respect to funds maintained under section 214.330**, the cemetery operator shall thereafter not represent the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be used for endowed care for that cemetery. The cemetery operator shall remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section of the cemetery for which endowed care payments have been collected, subject to the penalties contained in section 214.410, and civil actions as well as subject to any regulations promulgated by the division. **For purposes of this section, the term "deficiency" shall mean a deficiency in the amount required to be deposited pursuant to section 214.320, or a deficiency created by disbursements in excess of what is permitted under section 214.330 and shall not include or be affected by deficiencies or shortages caused by the fluctuating value of investments.**

214.330. ENDOWED CARE FUND HELD IN TRUST OR SEGREGATED ACCOUNT — REQUIREMENTS — DUTIES OF TRUSTEE OR INDEPENDENT INVESTMENT ADVISOR — OPERATOR'S DUTIES — ENDOWED CARE FUND AGREEMENT. — 1. [The endowed care fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state- or federally chartered financial institution authorized to exercise trust powers in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least annually or in other convenient installments. The cemetery

operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the trustee, or the independent investment advisor. An endowed care trust agreement may provide that when the principal in an endowed care trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the cemetery owner, relieving the trustee of all liability regarding investment decisions made by such qualified investment advisor. It shall be the duty of the trustee, or the investment advisor, in the investment of such funds to exercise the diligence and care men of ordinary prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The trustee's duties shall be the maintenance of records and the accounting for and investment of moneys deposited by the operator to the endowed care fund. For the purposes of sections 214.270 to 214.410, the trustee or investment advisor shall not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, including, but not limited to, compliance with environmental laws and regulations. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

2. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section then the funds shall be permanently set aside in a segregated bank account which requires the signature of the cemetery owner and either the administrator of the office of endowed care cemeteries, or the signature of a licensed practicing attorney with escrow powers in this state as joint signatories for any distribution from the trust fund. No funds shall be expended without the signature of either the administrator of the office of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in the state- or federally chartered financial institution authorized to do business in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least in annual or semiannual installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the cemetery operator with written approval of either the administrator of the office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty of the cemetery owner in the investment of such funds to exercise the diligence and care a person of reasonable prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The cemetery owner's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

3. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

4. All endowed care funds shall be administered in accordance with an endowed care fund agreement. The endowed care fund agreement shall be subject to review and approval by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding the approval or disapproval of the endowed care fund agreement and regarding any changes required to be made for compliance with this chapter and the rules and regulations promulgated thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the office of endowed care cemeteries. The office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state shall notify the endowed care cemetery in writing of approval and of any required change. Any amendment or change to the endowed care fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed practicing attorney with escrow powers in this state for review and approval. Said amendment or change shall not be effective until approved by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries or with a licensed practicing attorney with escrow powers in this state and to submit for approval any and all changes, amendment, or revisions of the endowed care fund agreement.

5. No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411, RSMo.] **The endowed care trust fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The contact information for a trust officer or duly appointed representative of the trustee with knowledge and access to the trust fund accounting and trust fund records must be disclosed to the office or its duly authorized representative upon request.**

(1) The trust fund records, including all trust fund accounting records, shall be maintained in the state of Missouri at all times or shall be electronically stored so that the records may be made available in the state of Missouri within fifteen business days of receipt of a written request. The operator of an endowed care cemetery shall maintain a current name and address of the trustee and the records custodian for the endowed care trust fund and shall supply such information to the office, or its representative, upon request.

(2) Missouri law shall control all endowed care trust funds and the Missouri courts shall have jurisdiction over endowed care trusts regardless of where records may be kept or various administrative tasks may be performed.

2. An endowed care trust fund shall be administered in accordance with Missouri law governing trusts, including but not limited to the applicable provisions of chapters 456 and 469, except as specifically provided in this subsection or where the provisions of sections 214.270 to 214.410 provide differently, provided that a cemetery operator shall not in any circumstances be authorized to restrict, enlarge, change, or modify the requirements of this section or the provisions of chapters 456 and 469 by agreement or otherwise.

(1) Income and principal of an endowed care trust fund shall be determined under the provisions of law applicable to trusts, except that the provisions of section 469.405 shall not apply.

(2) No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411.

(3) No right to transfer jurisdiction from Missouri under section 456.1-108 shall exist for endowed care trusts.

(4) All endowed care trusts shall be irrevocable.

(5) No trustee shall have the power to terminate an endowed care trust fund under the provisions of section 456.4-414.

(6) A unitrust election made in accordance with the provisions of chapter 469 shall be made by the cemetery operator in the terms of the endowed care trust fund agreement itself, not by the trustee.

(7) No contract of insurance shall be deemed a suitable investment for an endowed care trust fund.

(8) The income from the endowed care fund may be distributed to the cemetery operator at least annually on a date designated by the cemetery operator, but no later than sixty days following the end of the trust fund year. Any income not distributed within sixty days following the end of the trust's fiscal year shall be added to and held as part of the principal of the trust fund.

3. The cemetery operator shall have the duty and responsibility to apply the income distributed to provide care and maintenance only for that part of the cemetery designated as an endowed care section and not for any other purpose.

4. In addition to any other duty, obligation, or requirement imposed by sections 214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the maintenance of records related to the trust and the accounting for and investment of moneys deposited by the operator to the endowed care trust fund.

(1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, or the proper expenditure of funds distributed by the trustee to the cemetery operator, including, but not limited to, compliance with environmental laws and regulations.

(2) With respect to cemetery property maintained by endowed care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property.

5. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section, then the funds shall be permanently set aside in an escrow account in the state of Missouri. Funds in an escrow account shall be placed in an endowed care trust fund under subsection 1 if the funds in the escrow account exceed three hundred fifty thousand dollars, unless otherwise approved by the division for good cause. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in a state or federally chartered financial institution authorized to do business in Missouri and located in this state.

(1) The interest from the escrow account may be distributed to the cemetery operator at least in annual or semiannual installments, but not later than six months following the calendar year. Any interest not distributed within six months following the end of the calendar year shall be added to and held as part of the principal of the account.

(2) The cemetery operator shall have the duty and responsibility to apply the interest to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the escrow account shall have been established and not for any other purpose. The principal of such funds shall be kept intact. The cemetery operator's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the escrow account. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery

care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator.

(3) The division may approve an escrow agent if the escrow agent demonstrates the knowledge, skill, and ability to handle escrow funds and financial transactions and is of good moral character.

6. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

7. Excluding funds held in an escrow account, all endowed care trust funds shall be administered in accordance with an endowed care trust fund agreement, which shall be submitted to the office by the cemetery operator for review and approval. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries regarding the approval or disapproval of the endowed care trust fund agreement and regarding any changes required to be made for compliance with sections 214.270 to 214.410 and the rules and regulations promulgated thereunder.

8. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries and to submit for prior approval any and all changes, amendments, or revisions of the endowed care trust fund agreement, at least thirty days before the effective date of such change, amendment, or revision.

9. If the endowed care trust fund agreement, or any changes, amendments, or revisions filed with the office, are not disapproved by the office within thirty days after submission by the cemetery operator, the endowed care trust fund agreement, or the related change, amendment, or revision, shall be deemed approved and may be used by the cemetery operator and the trustee. Notwithstanding any other provision of this section, the office may review and disapprove an endowed care trust fund agreement, or any submitted change, amendment, or revision, after the thirty days provided herein or at any other time if the agreement is not in compliance with sections 214.270 to 214.410 or the rules promulgated thereunder. Notice of disapproval by the office shall be in writing and delivered to the cemetery operator and the trustee within ten days of disapproval.

10. Funds in an endowed care trust fund or escrow account may be commingled with endowed care funds for other endowed care cemeteries, provided that the cemetery operator and the trustee shall maintain adequate accounting records of the disbursements, contributions, and income allocated for each cemetery.

11. By accepting the trusteeship of an endowed care trust or accepting funds as an escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits personally to the jurisdiction of the courts of this state and the office of endowed care cemeteries regarding the administration of the trust or escrow account. A trustee or escrow agent shall consent in writing to the jurisdiction of the state of Missouri and the office in regards to the trusteeship or the operation of the escrow account and to the appointment of the office of secretary of state as its agent for service of process regarding any administrative or legal actions relating to the trust or the escrow account, if it has no designated agent for service of process located in this state. Such consent shall be filed with the office prior to accepting funds pursuant to sections 214.270 to 214.410 as trustee or as an escrow agent on a form provided by the office by rule.

214.335. CONTRIBUTIONS TO ENDOWED CARE FUND FOR MEMORIAL OR MONUMENT — DEFICIENCY, EFFECT OF. — 1. Any endowed care cemetery may require a contribution to the endowed care fund or to a separate memorial care fund for each memorial or monument installed on a grave in the cemetery. Such contribution, if required by a cemetery, shall not exceed twenty cents per square inch of base area, and shall be charged on every installation regardless of the person performing the installation. Each contribution made pursuant to a contract or agreement entered into after August 28, 1990, shall be entrusted and administered

pursuant to sections 214.270 to 214.410 for the endowed care fund. Each contribution made pursuant to a contract or agreement entered into before August 28, 1990, shall be governed by the law in effect at the time the contract or agreement was entered into.

2. If the deposits to any endowed care trust fund are less than the total sum required to be set aside and deposited since the effective date of such sections, the cemetery operator shall correct such deficiency by depositing not less than twenty percent of such deficiency each year for five years and shall file, on the form provided by the division, a statement outlining the date and amount such deposits were made. If the cemetery operator fails to correct the deficiency with respect to funds maintained under section 214.330, the cemetery operator shall thereafter not represent the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be used for endowed care for that cemetery. The cemetery operator shall remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section of the cemetery for which endowed care payments have been collected, subject to the penalties contained in section 214.410, and civil actions, as well as subject to any regulations promulgated by the division. For purposes of this section, the term "deficiency" shall mean a deficiency in the amount required to be deposited pursuant to subsection 1 of this section, or a deficiency created by disbursements in excess of what is permitted under section 214.330 and shall not include or be affected by deficiencies or shortages caused by the fluctuating value of investments.

214.340. REPORT REQUIRED — CONTENT — OATH — FILING REQUIRED. — 1. Each operator of an endowed care cemetery shall maintain at an office in the cemetery or, if the cemetery has no office in the cemetery, at an office within a reasonable distance of the cemetery, the reports of the endowed care **trust** fund's operation for the preceding seven years. Each report shall contain, at least, the following information:

- (1) Name and address of the trustee of the endowed care **trust** fund and the depository, if different from the trustee;
- (2) Balance per previous year's report;
- (3) Principal contributions received since previous report;
- (4) Total earnings since previous report;
- (5) Total distribution to the cemetery operator since the previous report;
- (6) Current balance;
- (7) A statement of all assets listing cash, real or personal property, stocks, bonds, and other assets, showing cost, acquisition date and current market value of each asset;
- (8) Total expenses, excluding distributions to cemetery operator, since previous report; and
- (9) A statement of the cemetery's total acreage and of its developed acreage.

2. Subdivisions (1) through (7) of the report described in subsection 1 above shall be certified to under oath as complete and correct by a corporate officer of the trustee. Subdivision (8) of such report shall be certified under oath as complete and correct by an officer of the cemetery operator. Both the trustee and cemetery operator or officer shall be subject to the penalty of making a false affidavit or declaration.

3. The report shall be placed in the cemetery's office within ninety days of the close of the trust's fiscal year. A copy of this report shall be filed by the cemetery operator with the division of professional registration as condition of license renewal as required by subsection 4 of section 214.275. [The report shall not be sent to the state board of embalmers and funeral directors.]

4. Each cemetery operator who establishes [a segregated] **an escrow or trust** account pursuant to [subsection 1 of section 214.385] **section 214.387** shall file with the report required under subsection 1 of this section [a segregated] **an escrow or trust** account report that shall provide the following information:

(1) The [number of monuments, markers and memorials] **total face value of all contracts for burial merchandise and services** that have been deferred for delivery by purchase designation; **and**

(2) [The aggregate wholesale cost of all such monuments, markers and memorials; and

(3)] The amount on deposit in the [segregated] **escrow or trust** account established pursuant to section [214.385] **214.387**, and the account number **in the case of an escrow account**.

214.345. SALE OF CEMETERY PLOT — WRITTEN STATEMENT TO BE GIVEN TO PURCHASER — COPY OF ANNUAL REPORT TO BE AVAILABLE TO PUBLIC. — 1. Any cemetery operator who negotiates the sale of burial space in any cemetery located in this state shall provide each prospective owner of burial space a written statement, which may be a separate form or a part of the sales contract, which states and explains in plain language that the burial space is part of an endowed care cemetery; that the cemetery has established and maintains the endowed care **trust** fund required by law; and that the information regarding the fund described in section 214.340 is available to the prospective purchaser. If the burial space is in a nonendowed cemetery, or in a nonendowed section of an endowed care cemetery, the cemetery operator shall state he has elected not to establish an endowed care **trust** fund.

2. The operator of each endowed care cemetery shall, upon request, give to the public for retention a copy of the endowed care **trust** fund annual report prepared pursuant to the provisions of subsection 1 of section 214.340.

214.360. PRIVATE USE OF TRUST FUNDS PROHIBITED. — No cemetery operator, nor any director, officer or shareholder of any cemetery may borrow or in any other way make use of the endowed care **trust** funds for his own use, directly or indirectly, or for furthering or developing his or any other cemetery, nor may any trustee lend or make such funds available for said purpose or for the use of any operator or any director, officer or shareholder of any cemetery.

214.363. BANKRUPTCY, ASSIGNMENT FOR BENEFIT OF CREDITORS, ENDOWED CARE FUND EXEMPT. — In the event of a cemetery's bankruptcy, insolvency, or assignment for the benefit of creditors, the endowed care **trust** funds shall not be available to any creditor as assets of the cemetery's owner or to pay any expenses of any bankruptcy or similar proceeding, but shall be retained intact to provide for the future maintenance of the cemetery.

214.365. CEMETERY FAILING TO PROVIDE MAINTENANCE — ABANDONMENT OR CEASING TO OPERATE, DIVISION'S DUTIES. — Prior to any action as provided in subsection 2 of section 214.205, and when the division has information that a [public] cemetery is not providing maintenance and care, has been abandoned, or has ceased operation, the division may investigate the cemetery to determine the cemetery's current status. If the division finds evidence that the cemetery is abandoned, is not conducting business, or is not providing maintenance and care, the division may apply to the circuit court for appointment as receiver, trustee, or successor in trust.

214.367. SALE OF ASSETS, NOTICE REQUIRED — PROSPECTIVE PURCHASER OF ENDOWED CARE CEMETERY, RIGHT TO RECENT AUDIT — RIGHT TO CONTINUE OPERATION, NOTIFICATION BY DIVISION. — 1. **Prior to selling or otherwise disposing of a majority of the business assets of a cemetery, or a majority of its stock or other ownership interest, if a corporation or other organized business entity, the cemetery operator shall provide written notification to the division of its intent at least thirty days prior to the date set for the transfer, or the closing of the sale, or the date set for termination of its business. Such notice is confidential and shall not be considered a public record subject to the provisions of chapter 610 until the sale of the cemetery has been effectuated. Upon receipt of the**

written notification, the division may take reasonable and necessary action to determine that the cemetery operator has made proper plans to assure that trust funds or funds held in an escrow account for or on behalf of the cemetery will be set aside and used as provided in sections 214.270 to 214.410, including, but not limited to, an audit or examination of books and records. The division may waive the requirements of this subsection or may shorten the period of notification for good cause or if the division determines in its discretion that compliance with its provisions are not necessary.

2. A cemetery operator may complete the sale, transfer, or cessation if the division does not disapprove the transaction within thirty days after receiving notice. Nothing in this section shall be construed to restrict any other right or remedy vested in the division or the attorney general.

3. A prospective purchaser or transferee of [any endowed care] **endowed or unendowed** cemetery, with the written consent of the cemetery operator, may obtain a copy of the cemetery's most recent audit or inspection report from the division. The division shall inform the prospective purchaser or transferee, within thirty days, whether the cemetery may continue to operate and be represented as [an endowed care] **a cemetery**.

214.387. BURIAL MERCHANDISE OR SERVICES, DEFERRAL OF DELIVERY, WHEN — ESCROW ARRANGEMENT — DISTRIBUTION OF MONEYS — CANCELLATION. — 1. [Upon written instructions from the purchaser of burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is canceled. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided.

2. Upon written instructions from the purchaser of an interment, entombment, or inurnment cemetery service, a cemetery may defer performance of such service to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the agreement is paid in full, deposits from its own funds an amount equal to eighty percent of the published retail price into a trustee account. Funds deposited in a trustee account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the service is made or the agreement for the purchase of the service is canceled. No withdrawals may be made from the trustee account established pursuant to this section and section 214.385 except as provided herein. Money in this account shall be invested utilizing the prudent man theory and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

3. Upon the delivery of the interment, entombment, or inurnment cemetery service agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase of such service, the cemetery operator may withdraw from the trustee account an amount equal to (i) the market value of the trustee account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the aggregate deposit of all services which are paid in full but not delivered. The trustee account may be inspected or audited by the division.

4. The provisions of this section shall apply to all agreements entered into after August 28, 2002.] **With the exception of sales made pursuant to section 214.385, all sales of prearranged burial merchandise and services shall be made pursuant to this section.**

2. Upon written instructions from the purchaser of burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs associated with the sale, not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is cancelled, and fees and costs associated with the maintenance of the trust or escrow arrangement shall be charged to these funds. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided.

3. Each escrow arrangement must comply with the following:

(1) The escrow agent shall be located in Missouri, authorized to exercise escrow powers, and shall maintain the escrow records so that they may be accessed and produced for inspection within five business days of the agent's receipt of a written request made by the office or its duly authorized representative. A cemetery operator shall not serve as an escrow agent for the cemetery operator's account nor shall the escrow agent be employed by or under common ownership with the cemetery operator. The cemetery operator shall maintain a current name and address for the escrow agent with the office, and shall obtain written approval from the office before making any change in the name or address of the escrow agent. Notwithstanding any other provision of law, information regarding the escrow agent shall be deemed an open record;

(2) The escrow account funds shall be maintained in depository accounts at a Missouri financial institution that provides Federal Deposit Insurance Corporation or comparable deposit insurance;

(3) The escrow arrangement shall be administered by the escrow agent pursuant to an agreement approved by the office under the same filing and approval procedure as that set forth for endowed care trust fund agreements in section 214.330;

(4) The operator shall establish a separate depository account for each cemetery prearranged contract administered pursuant to this subsection;

(5) The division may promulgate by rule a form escrow agreement to be used by a cemetery operator operating pursuant to this section.

4. Each trust must comply with the following:

(1) The trustee shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri, provided that a foreign financial institution must be approved by the office;

(2) The trust fund records, including all trust fund accounting records, shall either be maintained in the state of Missouri or shall be electronically stored so that the records may be made available within fifteen business days of the trustee's receipt of a written request made by the office or its duly authorized representative. The cemetery operator shall maintain a current name and address of the trustee and the records custodian and shall supply such information to the office or its representative upon request;

(3) The principal of such funds shall be appropriately invested pursuant to the prudent investor rule under chapter 469, provided that no trust funds shall be invested in any term insurance product;

(4) Payments regarding two or more cemetery prearranged contracts may be deposited into and commingled in the same trust, so long as adequate records are made available to the trustee to account for cemetery prearranged contracts on an individual basis with regard to deposits, earnings, distributions, and any taxes;

(5) Trust instruments shall be subject to the same filing and approval procedure as that set forth for endowed care trust fund agreements under section 214.330;

(6) A trustee may commingle the funds from trusts of unrelated cemetery operators for investment purposes if the trustee has adequate accounting for the allocations, disbursements, payments, and income among the participating trusts.

5. The income from escrow accounts, after payment of expenses associated with the arrangement, shall be distributed to the cemetery operator. All other distributions from trusts and escrow accounts shall be made pursuant to forms approved by the office. For performance of a cemetery prearranged contract, a certificate of performance form signed by the cemetery operator shall be required for distribution. For cancellation of a cemetery prearranged contract, a certificate of cancellation form signed by the cemetery operator and the purchaser shall be required for distribution.

6. A cemetery prearranged contract is subject to cancellation as follows:

(1) At any time before the final disposition of the deceased, or before the services or merchandise described in this section are provided, the purchaser may cancel the contract without cause by delivering written notice thereof to the operator. Within fifteen days after its receipt of such notice, the cemetery operator shall pay to the purchaser a net amount equal to eighty percent of all payments made under the contract. The cemetery operator shall be entitled to keep one-half of the interest earned on trust funds. Upon delivery of the purchaser's receipt for such payment to the escrow agent or trustee, the escrow agent or trustee shall distribute to the cemetery operator from the escrow account or trust an amount equal to all deposits made into the escrow account or trust for the contract;

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if a purchaser is eligible, becomes eligible, or desires to become eligible, to receive public assistance under chapter 208 or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel the contract pursuant to the provisions of subdivision (1) of this section, which waiver and renunciation shall be made in writing and delivered to the cemetery operator;

(3) Notwithstanding the provisions of subdivision (1) of this subsection, any purchaser, within thirty days of receipt of the executed contract, may cancel the contract without cause by delivering written notice thereof to the cemetery operator, and receive a full refund of all payments made on the contract;

(4) Notwithstanding the provisions of subdivision (1) of this subsection, once any purchase order is entered for the production or manufacture of burial merchandise, per the purchaser's written request, the purchaser's obligation to pay for said burial merchandise shall be noncancellable;

(5) No funds subject to a purchaser's right of cancellation hereunder shall be subject to the claims of the cemetery operator's creditors.

7. Burial merchandise sold through a contract with a cemetery or cemetery operator which is entered into after the death of the individual for whom the burial merchandise is intended shall not be subject to any trusting or escrow requirement of this section.

8. This section shall apply to all agreements entered into after August 28, 2010.

214.389. SUSPENSION OF DISTRIBUTION, WHEN, PROCEDURE. — 1. The division may direct a trustee, financial institution, or escrow agent to suspend distribution from an endowed care trust fund or escrow account if the cemetery operator does not have a current and active cemetery operator license, has failed to file an annual report, or if, after an audit or examination, the division determines there is a deficiency in an endowed care trust fund or escrow account maintained under section 214.330 and the cemetery operator has failed to file a corrective action plan detailing how the deficiency shall be remedied. For purposes of this section, a deficiency shall only be deemed to exist if, after an audit or

examination, the division determines a cemetery operator has failed to deposit the total aggregate of funds required to be deposited in trust or an escrow account pursuant to section 214.320 or subsection 1 of section 214.335, or has received disbursements from the trust or escrow account in excess of what is permitted under section 214.330. No deficiency shall be deemed to be created by fluctuations in the value of investments held in trust or escrow.

2. The division shall provide written notification to the cemetery operator and the trustee, financial institution, or escrow agent within fourteen days of discovering a potential violation as described in this section. Upon receipt of written notification from the division, the cemetery operator shall have sixty days to cure any alleged violations or deficiencies cited in the notification without a suspension of distribution. If, after the sixty-day time period, the division feels the cemetery has not cured the alleged violations or deficiencies cited in the notification, the division may send a notice of suspension to the cemetery operator that the division is ordering a suspension of distribution as described in this section. In the event of a suspension of distribution, the amount of any distribution suspended shall become principal, with credit against the deficiency, unless the cemetery operator files an appeal with a court of competent jurisdiction or with the administrative hearing commission, as provided herein. In the event of an appeal, a cemetery operator may request the court or administrative hearing commission stay the suspension of distribution after a showing of necessity and good cause or authorize payment from the endowed care trust fund or escrow account for necessary expenses from any amount subject to distribution.

3. Upon receipt of an order from the division suspending distribution pursuant to this section, a trustee, financial institution, or escrow agent shall immediately suspend distribution as required by the order. A trustee, financial institution, or escrow agent shall be exempt from liability for failure to distribute funds as ordered by the division.

4. A cemetery operator may appeal an order suspending distribution pursuant to this section to the administrative hearing commission. The administrative hearing commission shall receive notice of such appeal within thirty days from the date the notice of suspension was mailed by certified mail. Failure of a person whose license was suspended to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the suspension. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission pursuant to chapter 621.

5. A cemetery operator may apply for reinstatement of distributions upon demonstration that the deficiencies or other problems have been cured or that the operator has otherwise come into compliance.

6. The division may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

214.392. DIVISION OF PROFESSIONAL REGISTRATION, DUTIES AND POWERS IN REGULATION OF CEMETERIES — RULEMAKING AUTHORITY. — 1. The division shall:

(1) Recommend prosecution for violations of the provisions of sections 214.270 to 214.410 to the appropriate prosecuting, circuit attorney or to the attorney general;

(2) Employ, within limits of the funds appropriated, such employees as are necessary to carry out the provisions of sections 214.270 to 214.410;

(3) Be allowed to convey full authority to each city or county governing body the use of inmates controlled by the department of corrections and the board of probation and parole to care for abandoned cemeteries located within the boundaries of each city or county;

(4) Exercise all budgeting, purchasing, reporting and other related management functions;

(5) **Be authorized, within the limits of the funds appropriated, to conduct investigations, examinations, or audits to determine compliance with sections 214.270 to 214.410;**

(6) The division may promulgate rules necessary to implement the provisions of sections 214.270 to 214.516, including but not limited to:

(a) Rules setting the amount of fees authorized pursuant to sections 214.270 to 214.516. The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and expense of administering sections 214.270 to 214.516. All moneys received by the division pursuant to sections 214.270 to 214.516 shall be collected by the director who shall transmit such moneys to the department of revenue for deposit in the state treasury to the credit of the endowed care cemetery audit fund created in section 193.265, RSMo;

(b) Rules to administer the inspection and audit provisions of the endowed care cemetery law;

(c) Rules for the establishment and maintenance of the cemetery registry pursuant to section 214.283.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

214.400. CITATION OF LAW. — Sections 214.270 to 214.410 shall be known as the "Cemetery Endowed Care **Trust** Fund Law".

214.410. VIOLATION OF LAW, PENALTY. — 1. Any cemetery operator who shall willfully violate any provisions of sections 214.270 to 214.410 for which no penalty is otherwise prescribed shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed five hundred dollars or shall be confined not more than six months or both.

2. Any cemetery operator who shall willfully violate any provision of [section] **sections** 214.320, 214.330, 214.335, 214.340, 214.360 [or], 214.385, **or 214.387** shall be deemed guilty of a class D felony and upon conviction thereof shall be fined a sum not to exceed ten thousand dollars or shall be confined not more than five years or both. This section shall not apply to cemeteries or cemetery associations which do not sell lots in the cemetery.

3. Any trustee who shall willfully violate any applicable provisions of sections 214.270 to 214.410 shall have committed an unsafe and unsound banking practice and shall be penalized as authorized by chapters 361 and 362, RSMo. This subsection shall be enforced exclusively by the Missouri division of finance for state chartered institutions and the Missouri attorney general for federally chartered institutions.

4. Any person who shall willfully violate any provision of section 214.320, 214.330, 214.335, 214.340, 214.360 or 214.385 or violates any rule, regulation or order of the division may, in accordance with the regulations issued by the division, be assessed an administrative penalty by the division. The penalty shall not exceed five thousand dollars for each violation and each day of the continuing violation shall be deemed a separate violation for purposes of administrative penalty assessment. However, no administrative penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the

violation. Penalty assessments received shall be deposited in the endowed care cemetery audit fund created in section 193.265, RSMo.

214.500. CEMETERIES ACQUIRED BY A CITY AT TAX SALES OR AS NUISANCES MAY BE SOLD. — Any cemetery located in a city [not within a county,] which has become the property of such city pursuant to section 214.205 or a public tax sale may be sold to another cemetery operator or a not-for-profit corporation which is unrelated to the previous cemetery operator.

214.504. NO LIABILITY FOR NEW CEMETERY OPERATORS, WHEN — RIGHTS OF HOLDERS OF CONTRACTS FOR BURIAL. — Any cemetery operator who purchases a cemetery from a city [not within a county] pursuant to sections 214.500 to 214.516 shall not be liable for any wrongful interments or errors made in the sale of plots prior to the cemetery operator's purchase of the cemetery, nor shall such cemetery operator be liable for multiple ownership of plots sold by such cemetery operator due to a lack of adequate records in such cemetery operator's possession at the time of such cemetery operator's purchase of such cemetery from the city, provided the cemetery operator offers a plot of equal value for the interment, if such party can prove ownership of the right to bury a person by presenting a contract for the right to burial.

214.508. PREVIOUS CEMETERY OWNER LIABLE, WHEN. — Any cemetery operator who purchases a cemetery from a city [not within a county] shall not be held liable or responsible for any conditions existing or actions taken which occurred prior to the cemetery operator's purchase from such city; except that, the exemption provided in this section shall not relieve any previous owner or wrongdoer for their actions related to such cemetery.

214.512. NEW CEMETERY OWNER NOT LIABLE FOR DEFICIENCIES, EXCEPTION. — Any subsequent cemetery owner after a city [not within a county] shall be exempt from the provisions of section 214.325 and section 214.410 for any deficiency existing prior to such city's ownership; except that, such exemption shall not relieve any previous cemetery owners or wrongdoers from the provisions of such sections.

214.516. REGISTRATION AS AN ENDOWED CARE CEMETERY, WHEN — COMPLIANCE WITH ENDOWED CARE CEMETERY LAW REQUIRED. — Any cemetery owner subsequent to a city [not within a county], regardless of whether such cemetery was previously registered as an endowed care cemetery, held itself out to be an endowed care cemetery or was a nonendowed care cemetery, shall comply with section 214.310 and register such cemetery as an endowed care cemetery as if it were a newly created cemetery with no interments at the time of such registration. Any contracts for the right of burial sold after compliance with section 214.310 and all subsequent action of a subsequent cemetery owner shall comply fully with the provisions of sections 214.270 to 214.410.

214.550. SCATTER GARDENS, OPERATION BY CHURCHES MAINTAINING RELIGIOUS CEMETERIES — MAINTENANCE OF GARDEN AND RECORDS, DUTY OF OPERATOR. — 1. For purposes of this section, the following terms mean:

- (1) "Cremains", the [ashes that remain after cremation of a human corpse] **remains of a human corpse after cremation;**
- (2) "Operator", a church that owns and maintains a religious cemetery;
- (3) "Religious cemetery", a cemetery owned, operated, controlled, or managed by any church that has or would qualify for federal tax-exempt status as a nonprofit religious organization pursuant to section 501(c) of the Internal Revenue Code as amended;
- (4) "Scatter garden", a location for the spreading of cremains set aside within a cemetery.

2. It shall be lawful for any operator of a religious cemetery adjacent to a church building or other building regularly used as a place of worship to establish a scatter garden for the purpose of scattering human remains.

3. The operator of any religious cemetery containing a scatter garden shall maintain, protect, and supervise the scatter garden, and shall be responsible for all costs incurred for such maintenance, protection, and supervision. Such operator shall also maintain a record of all remains scattered in the scatter garden that shall include the name, date of death, and Social Security number of each person whose remains are scattered, and the date the remains were scattered.

4. A scatter garden established pursuant to this section shall be maintained by the operator of the religious cemetery for as long as such operator is in existence. Upon dissolution of such operator, all records of remains shall be transferred to the clerk of the city, town, or village in which the scatter garden is located, or if the scatter garden is located in any unincorporated area, to the county recorder.

301.142. DEFINITIONS — PLATES FOR DISABLED AND PLACARD FOR WINDSHIELD, ISSUED WHEN — PHYSICIAN STATEMENTS, REQUIREMENTS — DEATH OF DISABLED PERSON, EFFECT — LOST OR STOLEN PLACARD, REPLACEMENT OF, FEE — RECERTIFICATION AND REVIEW BY DIRECTOR, WHEN — PENALTIES FOR CERTAIN FRAUDULENT ACTS. — 1. As used in sections 301.141 to 301.143, the following terms mean:

(1) "Department", the department of revenue;

(2) "Director", the director of the department of revenue;

(3) "Other authorized health care practitioner" includes advanced practice registered nurses licensed pursuant to chapter 335, RSMo, **physician assistants licensed pursuant to chapter 334**, chiropractors licensed pursuant to chapter 331, RSMo, podiatrists licensed pursuant to chapter 330, RSMo, and optometrists licensed pursuant to chapter 336, RSMo;

(4) "Physically disabled", a natural person who is blind, as defined in section 8.700, RSMo, or a natural person with medical disabilities which prohibits, limits, or severely impairs one's ability to ambulate or walk, as determined by a licensed physician or other authorized health care practitioner as follows:

(a) The person cannot ambulate or walk fifty or less feet without stopping to rest due to a severe and disabling arthritic, neurological, orthopedic condition, or other severe and disabling condition; or

(b) The person cannot ambulate or walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

(c) Is restricted by a respiratory or other disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

(d) Uses portable oxygen; or

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

(f) A person's age, in and of itself, shall not be a factor in determining whether such person is physically disabled or is otherwise entitled to disabled license plates and/or disabled windshield hanging placards within the meaning of sections 301.141 to 301.143;

(5) "Physician", a person licensed to practice medicine pursuant to chapter 334, RSMo;

(6) "Physician's statement", a statement personally signed by a duly authorized person which certifies that a person is disabled as defined in this section;

(7) "Temporarily disabled person", a disabled person as defined in this section whose disability or incapacity is expected to last no more than one hundred eighty days;

(8) "Temporary windshield placard", a placard to be issued to persons who are temporarily disabled persons as defined in this section, certification of which shall be indicated on the physician's statement;

(9) "Windshield placard", a placard to be issued to persons who are physically disabled as defined in this section, certification of which shall be indicated on the physician's statement.

2. Other authorized health care practitioners may furnish to a disabled or temporarily disabled person a physician's statement for only those physical health care conditions for which such health care practitioner is legally authorized to diagnose and treat.

3. A physician's statement shall:

(1) Be on a form prescribed by the director of revenue;

(2) Set forth the specific diagnosis and medical condition which renders the person physically disabled or temporarily disabled as defined in this section;

(3) Include the physician's or other authorized health care practitioner's license number; and

(4) Be personally signed by the issuing physician or other authorized health care practitioner.

4. If it is the professional opinion of the physician or other authorized health care practitioner issuing the statement that the physical disability of the applicant, user, or member of the applicant's household is permanent, it shall be noted on the statement. Otherwise, the physician or other authorized health care practitioner shall note on the statement the anticipated length of the disability which period may not exceed one hundred eighty days. If the physician or health care practitioner fails to record an expiration date on the physician's statement, the director shall issue a temporary windshield placard for a period of thirty days.

5. A physician or other authorized health care practitioner who issues or signs a physician's statement so that disabled plates or a disabled windshield placard may be obtained shall maintain in such disabled person's medical chart documentation that such a certificate has been issued, the date the statement was signed, the diagnosis or condition which existed that qualified the person as disabled pursuant to this section and shall contain sufficient documentation so as to objectively confirm that such condition exists.

6. The medical or other records of the physician or other authorized health care practitioner who issued a physician's statement shall be open to inspection and review by such practitioner's licensing board, in order to verify compliance with this section. Information contained within such records shall be confidential unless required for prosecution, disciplinary purposes, or otherwise required to be disclosed by law.

7. Owners of motor vehicles who are residents of the state of Missouri, and who are physically disabled, owners of motor vehicles operated at least fifty percent of the time by a physically disabled person, or owners of motor vehicles used to primarily transport physically disabled members of the owner's household may obtain disabled person license plates. Such owners, upon application, accompanied by the documents and fees provided for in this section, a current physician's statement which has been issued within ninety days preceding the date the application is made and proof of compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles, shall be issued motor vehicle license plates for vehicles, other than commercial vehicles with a gross weight in excess of twenty-four thousand pounds, upon which shall be inscribed the international wheelchair accessibility symbol and the word "DISABLED" in addition to a combination of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

8. The director shall further issue, upon request, to such applicant one, and for good cause shown, as the director may define by rule and regulations, not more than two, removable disabled windshield hanging placards for use when the disabled person is occupying a vehicle or when a vehicle not bearing the permanent handicap plate is being used to pick up, deliver, or collect the physically disabled person issued the disabled motor vehicle license plate or disabled windshield hanging placard.

9. No additional fee shall be paid to the director for the issuance of the special license plates provided in this section, except for special personalized license plates and other license plates described in this subsection. Priority for any specific set of special license plates shall be given to the applicant who received the number in the immediately preceding license period subject to the applicant's compliance with the provisions of this section and any applicable rules or regulations issued by the director. If determined feasible by the advisory committee established in section 301.129, any special license plate issued pursuant to this section may be adapted to also include the international wheelchair accessibility symbol and the word "DISABLED" as prescribed in this section and such plate may be issued to any applicant who meets the requirements of this section and the other appropriate provision of this chapter, subject to the requirements and fees of the appropriate provision of this chapter.

10. Any physically disabled person, or the parent or guardian of any such person, or any not-for-profit group, organization, or other entity which transports more than one physically disabled person, may apply to the director of revenue for a removable windshield placard. The placard may be used in motor vehicles which do not bear the permanent handicap symbol on the license plate. Such placards must be hung from the front, middle rearview mirror of a parked motor vehicle and may not be hung from the mirror during operation. These placards may only be used during the period of time when the vehicle is being used by a disabled person, or when the vehicle is being used to pick up, deliver, or collect a disabled person. When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

11. The removable windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The removable windshield placard shall be renewed every four years. The director may stagger the expiration dates to equalize workload. Only one removable placard may be issued to an applicant who has been issued disabled person license plates. Upon request, one additional windshield placard may be issued to an applicant who has not been issued disabled person license plates.

12. A temporary windshield placard shall be issued to any physically disabled person, or the parent or guardian of any such person who otherwise qualifies except that the physical disability, in the opinion of the physician, is not expected to exceed a period of one hundred eighty days. The temporary windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for the temporary windshield placard shall be two dollars. Upon request, and for good cause shown, one additional temporary windshield placard may be issued to an applicant. Temporary windshield placards shall be issued upon presentation of the physician's statement provided by this section and shall be displayed in the same manner as removable windshield placards. A person or entity shall be qualified to possess and display a temporary removable windshield placard for six months and the placard may be renewed once for an additional six months if a physician's statement pursuant to this section is supplied to the director of revenue at the time of renewal.

13. Application for license plates or windshield placards issued pursuant to this section shall be made to the director of revenue and shall be accompanied by a statement signed by a licensed physician or other authorized health care practitioner which certifies that the applicant, user, or member of the applicant's household is a physically disabled person as defined by this section.

14. The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when the physically disabled occupant for whom the disabled plate or placard was issued is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected. A disabled license plate and/or a removable windshield hanging placard are not transferable and may not be used by any other person whether disabled or not.

15. At the time the disabled plates or windshield hanging placards are issued, the director shall issue a registration certificate which shall include the applicant's name, address, and other

identifying information as prescribed by the director, or if issued to an agency, such agency's name and address. This certificate shall further contain the disabled license plate number or, for windshield hanging placards, the registration or identifying number stamped on the placard. The validated registration receipt given to the applicant shall serve as the registration certificate.

16. The director shall, upon issuing any disabled registration certificate for license plates and/or windshield hanging placards, provide information which explains that such plates or windshield hanging placards are nontransferable, and the restrictions explaining who and when a person or vehicle which bears or has the disabled plates or windshield hanging placards may be used or be parked in a disabled reserved parking space, and the penalties prescribed for violations of the provisions of this act.

17. Every new applicant for a disabled license plate or placard shall be required to present a new physician's statement dated no more than ninety days prior to such application. Renewal applicants will be required to submit a physician's statement dated no more than ninety days prior to such application upon their first renewal occurring on or after August 1, 2005. Upon completing subsequent renewal applications, a physician's statement dated no more than ninety days prior to such application shall be required every fourth year. Such physician's statement shall state the expiration date for the temporary windshield placard. If the physician fails to record an expiration date on the physician's statement, the director shall issue the temporary windshield placard for a period of thirty days. The director may stagger the requirement of a physician's statement on all renewals for the initial implementation of a four-year period.

18. The director of revenue upon receiving a physician's statement pursuant to this subsection shall check with the state board of registration for the healing arts created in section 334.120, RSMo, or the Missouri state board of nursing established in section 335.021, RSMo, with respect to physician's statements signed by advanced practice registered nurses, or the Missouri state board of chiropractic examiners established in section 331.090, RSMo, with respect to physician's statements signed by licensed chiropractors, or with the board of optometry established in section 336.130, RSMo, with respect to physician's statements signed by licensed optometrists, or the state board of podiatric medicine created in section 330.100, RSMo, with respect to physician's statements signed by physicians of the foot or podiatrists to determine whether the physician is duly licensed and registered pursuant to law. If such applicant obtaining a disabled license plate or placard presents proof of disability in the form of a statement from the United States Veterans' Administration verifying that the person is permanently disabled, the applicant shall be exempt from the four-year certification requirement of this subsection for renewal of the plate or placard. Initial applications shall be accompanied by the physician's statement required by this section. Notwithstanding the provisions of paragraph (f) of subdivision (4) of subsection 1 of this section, any person seventy-five years of age or older who provided the physician's statement with the original application shall not be required to provide a physician's statement for the purpose of renewal of disabled persons license plates or windshield placards.

19. The boards shall cooperate with the director and shall supply information requested pursuant to this subsection. The director shall, in cooperation with the boards which shall assist the director, establish a list of all Missouri physicians and other authorized health care practitioners and of any other information necessary to administer this section.

20. Where the owner's application is based on the fact that the vehicle is used at least fifty percent of the time by a physically disabled person, the applicant shall submit a statement stating this fact, in addition to the physician's statement. The statement shall be signed by both the owner of the vehicle and the physically disabled person. The applicant shall be required to submit this statement with each application for license plates. No person shall willingly or knowingly submit a false statement and any such false statement shall be considered perjury and may be punishable pursuant to section 301.420.

21. The director of revenue shall retain all physicians' statements and all other documents received in connection with a person's application for disabled license plates and/or disabled windshield placards.

22. The director of revenue shall enter into reciprocity agreements with other states or the federal government for the purpose of recognizing disabled person license plates or windshield placards issued to physically disabled persons.

23. When a person to whom disabled person license plates or a removable or temporary windshield placard or both have been issued dies, the personal representative of the decedent or such other person who may come into or otherwise take possession of the disabled license plates or disabled windshield placard shall return the same to the director of revenue under penalty of law. Failure to return such plates or placards shall constitute a class B misdemeanor.

24. The director of revenue may order any person issued disabled person license plates or windshield placards to submit to an examination by a chiropractor, osteopath, or physician, or to such other investigation as will determine whether such person qualifies for the special plates or placards.

25. If such person refuses to submit or is found to no longer qualify for special plates or placards provided for in this section, the director of revenue shall collect the special plates or placards, and shall furnish license plates to replace the ones collected as provided by this chapter.

26. In the event a removable or temporary windshield placard is lost, stolen, or mutilated, the lawful holder thereof shall, within five days, file with the director of revenue an application and an affidavit stating such fact, in order to purchase a new placard. The fee for the replacement windshield placard shall be four dollars.

27. Fraudulent application, renewal, issuance, procurement or use of disabled person license plates or windshield placards shall be a class A misdemeanor. It is a class B misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice or if there is no basis for the diagnosis.

334.735. DEFINITIONS — RULES — SCOPE OF PRACTICE — PROHIBITED ACTIVITIES — BOARD OF HEALING ARTS TO ADMINISTER LICENSING PROGRAM — SUPERVISION AGREEMENTS — DUTIES AND LIABILITY OF PHYSICIANS. — 1. As used in sections 334.735 to 334.749, the following terms mean:

- (1) "Applicant", any individual who seeks to become licensed as a physician assistant;
 - (2) "Certification" or "registration", a process by a certifying entity that grants recognition to applicants meeting predetermined qualifications specified by such certifying entity;
 - (3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;
 - (4) "Department", the department of insurance, financial institutions and professional registration or a designated agency thereof;
 - (5) "License", a document issued to an applicant by the board acknowledging that the applicant is entitled to practice as a physician assistant;
 - (6) "Physician assistant", a person who has graduated from a physician assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency, who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants and has active certification by the National Commission on Certification of Physician Assistants who provides health care services delegated by a licensed physician. A person who has been employed as a physician assistant for three years prior to August 28, 1989, who has passed the National Commission on Certification of Physician Assistants examination, and has active certification of the National Commission on Certification of Physician Assistants;
 - (7) "Recognition", the formal process of becoming a certifying entity as required by the provisions of sections 334.735 to 334.749;
-

(8) "Supervision", control exercised over a physician assistant working within the same facility as the supervising physician sixty-six percent of the time a physician assistant provides patient care, except a physician assistant may make follow-up patient examinations in hospitals, nursing homes, patient homes, and correctional facilities, each such examination being reviewed, approved and signed by the supervising physician, except as provided by subsection 2 of this section. For the purposes of this section, the percentage of time a physician assistant provides patient care with the supervising physician on-site shall be measured each calendar quarter. The supervising physician must be readily available in person or via telecommunication during the time the physician assistant is providing patient care. The board shall promulgate rules pursuant to chapter 536, RSMo, for documentation of joint review of the physician assistant activity by the supervising physician and the physician assistant. The physician assistant shall be limited to practice at locations where the supervising physician is no further than thirty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services. Any other provisions of this chapter notwithstanding, for up to ninety days following the effective date of rules promulgated by the board to establish the waiver process under subsection 2 of this section, any physician assistant practicing in a health professional shortage area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated by the supervising physician on the supervising physician form that was in effect on April 1, 2007.

2. The board shall promulgate rules under chapter 536, RSMo, to direct the advisory commission on physician assistants to establish a formal waiver mechanism by which an individual physician-physician assistant team may apply for alternate minimum amounts of on-site supervision and maximum distance from the supervising physician. After review of an application for a waiver, the advisory commission on physician assistants shall present its recommendation to the board for its advice and consent on the approval or denial of the application. The rule shall establish a process by which the public is invited to comment on the application for a waiver, and shall specify that a waiver may only be granted if a supervising physician and physician assistant demonstrate to the board's satisfaction in accordance with its uniformly applied criteria that:

(1) Adequate supervision will be provided by the physician for the physician assistant, given the physician assistant's training and experience and the acuity of patient conditions normally treated in the clinical setting;

(2) The physician assistant shall be limited to practice at locations where the supervising physician is no further than fifty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services;

(3) The community or communities served by the supervising physician and physician assistant would experience reduced access to health care services in the absence of a waiver;

(4) The applicant will practice in an area designated at the time of application as a health professional shortage area;

(5) Nothing in this section shall be construed to require a physician-physician assistant team to increase their on-site requirement allowed in their initial waiver in order to qualify for renewal of such waiver;

(6) If a waiver has been granted by the board of healing arts **on or after August 28, 2009**, to a [physician] **physician-physician assistant team** working in a rural health clinic under the federal Rural Health Clinic Services Act, P.L. 95-210, as amended, no additional waiver shall be required **for the physician-physician assistant team**, so long as the rural health clinic maintains its status as a rural health clinic under such federal act, and such [physician assistant and supervising physician] **physician-physician assistant team** comply with federal supervision requirements. **No supervision requirements in addition to the minimum federal law shall be required for the physician-physician assistant team in a rural health clinic if a waiver has been granted by the board. However, the board shall be able to void a current waiver**

after conducting a hearing and upon a finding of fact that the physician-physician assistant team has failed to comply with such federal act or either member of the team has violated a provision of this chapter;

(7) A physician assistant shall only be required to seek a renewal of a waiver every five years or when his or her supervising physician is a different physician than the physician shown on the waiver application or they move their primary practice location more than ten miles from the location shown on the waiver application.

3. The scope of practice of a physician assistant shall consist only of the following services and procedures:

- (1) Taking patient histories;
- (2) Performing physical examinations of a patient;
- (3) Performing or assisting in the performance of routine office laboratory and patient screening procedures;
- (4) Performing routine therapeutic procedures;
- (5) Recording diagnostic impressions and evaluating situations calling for attention of a physician to institute treatment procedures;
- (6) Instructing and counseling patients regarding mental and physical health using procedures reviewed and approved by a licensed physician;
- (7) Assisting the supervising physician in institutional settings, including reviewing of treatment plans, ordering of tests and diagnostic laboratory and radiological services, and ordering of therapies, using procedures reviewed and approved by a licensed physician;
- (8) Assisting in surgery;
- (9) Performing such other tasks not prohibited by law under the supervision of a licensed physician as the physician's assistant has been trained and is proficient to perform;
- (10) Physician assistants shall not perform abortions.

4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or therapy [independent of consultation with the supervising physician] **unless pursuant to a physician supervision agreement in accordance with the law**, nor prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the measurement of visual power or visual efficiency of the human eye, nor administer or monitor general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a physician assistant supervision agreement which is specific to the clinical conditions treated by the supervising physician and the physician assistant shall be subject to the following:

- (1) A physician assistant shall only prescribe controlled substances in accordance with section 334.747;
- (2) The types of drugs, medications, devices or therapies prescribed or dispensed by a physician assistant shall be consistent with the scopes of practice of the physician assistant and the supervising physician;
- (3) All prescriptions shall conform with state and federal laws and regulations and shall include the name, address and telephone number of the physician assistant and the supervising physician;
- (4) A physician assistant or advanced practice nurse as defined in section 335.016, RSMo, may request, receive and sign for noncontrolled professional samples and may distribute professional samples to patients;
- (5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies the supervising physician is not qualified or authorized to prescribe; and
- (6) A physician assistant may only dispense starter doses of medication to cover a period of time for seventy-two hours or less.

5. A physician assistant shall clearly identify himself or herself as a physician assistant and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician

assistant shall practice or attempt to practice without physician supervision or in any location where the supervising physician is not immediately available for consultation, assistance and intervention, except as otherwise provided in this section, and in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant.

6. For purposes of this section, the licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536, RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be required to be licensed as physician assistants. All applicants for physician assistant licensure who complete a physician assistant training program after January 1, 2008, shall have a master's degree from a physician assistant program.

7. "Physician assistant supervision agreement" means a written agreement, jointly agreed-upon protocols or standing order between a supervising physician and a physician assistant, which provides for the delegation of health care services from a supervising physician to a physician assistant and the review of such services.

8. When a physician assistant supervision agreement is utilized to provide health care services for conditions other than acute self-limited or well-defined problems, the supervising physician or other physician designated in the supervision agreement shall see the patient for evaluation and approve or formulate the plan of treatment for new or significantly changed conditions as soon as practical, but in no case more than two weeks after the patient has been seen by the physician assistant.

9. At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

10. It is the responsibility of the supervising physician to determine and document the completion of at least a one-month period of time during which the licensed physician assistant shall practice with a supervising physician continuously present before practicing in a setting where a supervising physician is not continuously present.

11. No contract or other agreement shall require a physician to act as a supervising physician for a physician assistant against the physician's will. A physician shall have the right to refuse to act as a supervising physician, without penalty, for a particular physician assistant. No contract or other agreement shall limit the supervising physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any physician assistant, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. Physician assistants shall file with the board a copy of their supervising physician form.

13. No physician shall be designated to serve as supervising physician for more than three full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant agreements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo.

337.528. CONFIDENTIALITY OF COMPLAINT DOCUMENTATION, WHEN — DESTRUCTION OF INFORMATION PERMITTED, WHEN. — 1. If the committee finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections **or by an individual who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513** and takes further investigative action, no documentation may appear on file

or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 337.525 have been violated. Any case file documentation that does not result in the committee filing an action under subsection 2 of section 337.525 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 337.525 have been violated.

2. Upon written request of the licensed professional counselor subject to a complaint, prior to August 28, 2007, by an individual incarcerated or under the care and control of the department of corrections **or prior to August 28, 2010, by an individual who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513** that did not result in the committee filing an action under subsection 2 of section 337.525, the committee and the division of professional registration shall in a timely fashion:

- (1) Destroy all documentation regarding the complaint;
- (2) Notify any other licensing board in another state or any national registry regarding the committee's actions if they have been previously notified of the complaint; and
- (3) Send a letter to the licensee that clearly states that the committee found the complaint to be unsubstantiated, that the committee has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their counseling professions.

338.100. RECORDS REQUIRED TO BE KEPT — REQUIREMENTS. — 1. Every permit holder of a licensed pharmacy shall cause to be kept in a uniform fashion consistent with this section a suitable **book, file, or electronic recordkeeping system** in which shall be preserved, for a period of not less than five years, the original or order of each drug which has been compounded or dispensed at such pharmacy, according to and in compliance with standards provided by the board, and shall produce the same in court or before any grand jury whenever lawfully required. A licensed pharmacy may maintain its prescription file on readable microfilm for records maintained over three years. After September, 1999, a licensed pharmacy may preserve prescription files on microfilm or by electronic media storage for records maintained over three years. The pharmacist in charge shall be responsible for complying with the permit holder's record-keeping system in compliance with this section. Records maintained by a pharmacy that contain medical or drug information on patients or their care shall be considered as confidential and shall only be released according to standards provided by the board. Upon request, the pharmacist in charge of such pharmacy shall furnish to the [prescribe] **prescriber**, and may furnish to the person for whom such prescription was compounded or dispensed, a true and correct copy of the original prescription. The file of original prescriptions **kept in any format in compliance with this section**, and other confidential records, as defined by law, shall at all times be open for inspection by board of pharmacy representatives. **Records maintained in an electronic recordkeeping system shall contain all information otherwise required in a manual recordkeeping system. Electronic records shall be readily retrievable. Pharmacies may electronically maintain the original prescription or prescription order for each drug and may electronically annotate any change or alteration to a prescription record in the electronic recordkeeping system as authorized by law; provided however, original written and faxed prescriptions shall be physically maintained on file at the pharmacy under state and federal controlled substance laws.**

2. An institutional pharmacy located in a hospital shall be responsible for maintaining records of the transactions of the pharmacy as required by federal and state laws and as necessary to maintain adequate control and accountability of all drugs. This shall include a system of controls and records for the requisitioning and dispensing of pharmaceutical supplies where applicable to patients, nursing care units and to other departments or services of the institution.

Inspection performed pursuant to this subsection shall be consistent with the provisions of section 197.100, RSMo.

3. "Electronic recordkeeping system", as used in this section, shall mean a system, including machines, methods of organization, and procedures, that provides input, storage, processing, communications, output, and control functions for digitized images of original prescriptions.

339.010. DEFINITIONS—APPLICABILITY OF CHAPTER. — 1. A "real estate broker" is any person, partnership, **limited partnership, limited liability company**, association, **professional corporation**, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
- (6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
- (8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;
- (9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;
- (10) Performs any of the foregoing acts on behalf of the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person, **partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign** who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. A "real estate broker-salesperson" is any person, **partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign**, who has a real estate broker license in good standing, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. A real estate broker-salesperson may not also operate as a real estate broker. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

[3.] 4. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710 to 339.860 means the Missouri real estate commission.

[4.] 5. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in land,

whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this state.

[5.] 6. "Advertising" shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public, and shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, Internet advertising, websites, display or group ads in telephone directories, and billboards.

[6.] 7. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not apply to:

(1) Any person, partnership, **limited partnership, limited liability company**, association, **professional corporation**, or corporation who as owner, lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof;

(2) Any licensed attorney-at-law;

(3) An auctioneer employed by the owner of the property;

(4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(5) Any person employed or retained to manage real property by, for, or on behalf of the agent or the owner of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

(a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;

(c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;

(d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;

(e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper, magazine, periodical, Internet site, Internet communications, or any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission whereby the advertising of real estate is incidental to its operation;

(10) Any developer selling Missouri land owned by the developer;

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

(a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;

(b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or

(12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, Internet site, or other medium.

339.020. BROKERS AND SALESPERSONS, UNLAWFUL TO ACT WITHOUT LICENSE. — It shall be unlawful for any person, partnership, **limited partnership, limited liability company,** association, **professional corporation,** or corporation, foreign or domestic, to act as a real estate broker, **real estate broker-salesperson,** or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

339.030. BUSINESS ENTITIES MAY BE LICENSED, WHEN, FEE. — A corporation, partnership, **limited partnership, limited liability company, professional corporation,** or association shall be granted a **broker's, broker-salesperson's, or salesperson's** license when the required fee is paid and:

(1) For a real estate broker individual licenses have been issued to every member, **general partner, associate, manager, member,** or officer of such partnership, **limited partnership, limited liability company,** association, **professional corporation,** or corporation who actively participates in its brokerage business and to every person, **partnership, limited partnership, limited liability company, professional corporation, or corporation** who acts as a salesperson for such partnership, **limited partnership, limited liability company,** association, **professional corporation,** or corporation [and when the required fee is paid.]; or

(2) For a real estate broker-salesperson when an individual broker-salesperson license has been issued to every **general partner, associate, manager, member, or officers** of such **partnership, limited partnership, limited liability company, association, professional corporation, or corporation** who acts as a broker-salesperson, and individual salesperson licenses have been issued to all **general partners, associates, managers, members, or officers** of such **partnership, limited partnership, limited liability company, association, professional corporation, or corporation** who act as salesperson; or

(3) For a real estate salesperson when individual salesperson licenses have been issued to all **general partners, associates, managers, members, or officers** of such **partnership, limited partnership, limited liability company, association, professional corporation, or corporation** who act as a salesperson.

339.040. LICENSES GRANTED TO WHOM — EXAMINATION — QUALIFICATIONS — FEE — TEMPORARY BROKER'S LICENSE, WHEN — RENEWAL, REQUIREMENTS. — 1. Licenses shall be granted only to persons who present, and corporations, associations, [or] partnerships, **limited partnerships and limited liability companies** whose officers, **professional corporations, managers, associates, [or] general partners, or members** who actively

participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

- (1) Are persons of good moral character; and
- (2) Bear a good reputation for honesty, integrity, and fair dealing; and
- (3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180 and sections 339.710 to 339.860, the commission shall hold oral or written examinations at such times and places as the commission may determine.

3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.

4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.

5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least two years immediately preceding the date of application, and shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive all or part of the requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission. **Each application for a broker-salesperson license shall include evidence of the current broker license held by the applicant.**

6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

7. The commission may issue a temporary work permit pending final review and printing of the license to an applicant who appears to have satisfied the requirements for licenses. The commission may, at its discretion, withdraw the work permit at any time.

8. Every active broker, **broker-salesperson**, salesperson, officer, **manager**, **general partner**, **member** or associate shall provide upon request to the commission evidence that during the two years preceding he or she has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation, provide for individual waiver of this requirement.

9. Each entity that provides continuing education required under the provisions of subsection 8 of this section may make available instruction courses that the entity conducts through means of distance delivery. The commission shall by rule set standards for such courses. The commission may by regulation require the individual completing such distance-delivered course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the course and approved by the commission.

10. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed **general partners**, officers, **managers**, **members** or associates of a real estate partnership, **limited partnership**, **limited liability company**, **professional corporation**, corporation, or association whereby the affairs of the broker, partnership, [or] **limited**

partnership, limited liability company, professional corporation, corporation, or association cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs of the broker, partnership [or], **limited partnership, limited liability company, professional corporation, corporation, or association** under the supervision of the commission.

339.080. DENIAL OF APPLICATION OR LICENSE, WHEN, NOTICE — HEARING. — 1. The commission may refuse to examine or issue a license to any person known by it to be guilty of any of the acts or practices specified in subsection 2 of section 339.100, or to any person previously licensed whose license has been revoked, or may refuse to issue a license to any association [or], partnership, **corporation, professional corporation, limited partnership, or limited liability company** of which such person is a [member] **manager, officer or general partner, or in which as a member, partner or associates such person has or exercises a controlling interest either directly or indirectly**, or to any corporation of which such person is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.

2. Any person denied a license or the right to be examined shall be so notified by the commission in writing stating the reasons for denial or refusal to examine and informing the person so denied of his right to file a complaint with the administrative hearing commission in accordance with the applicable provisions of sections 621.015 to 621.198, RSMo, and the rules promulgated thereunder. All notices hereunder shall be sent by registered or certified mail to the last known address of the applicant.

339.110. REFUSAL OF LICENSES, WHEN. — The commission may refuse to issue a license to any person who is known by it to have been found guilty of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, or other like offense, or to any association [or], partnership, **corporation, professional corporation, limited partnership, or limited liability company** of which [the person is a member] **such person is a manager, officer or general partner, or in which as a member, partner or associate such person has or exercises a controlling interest either directly or indirectly**, or to any corporation of which [the] **such person is an officer or in which as a stockholder [the] such person has or exercises a controlling interest either directly or indirectly.**

339.160. REAL ESTATE BROKERS AND SALESPERSONS MAY NOT BRING LEGAL ACTION FOR COMPENSATION UNLESS LICENSED. — No person, partnership, **limited partnership, limited liability company, professional corporations, corporation, or association** engaged within this state in the business or acting in the capacity of a real estate broker, **real estate broker-salesperson** or real estate salesperson shall bring or maintain an action in any court in this state for the recovery of compensation for services rendered in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate without alleging and proving that such person, partnership, **limited partnership, limited liability company, professional corporation, corporation, or association, or its member, manager, officer, general partner or associate, as applicable,** was a licensed real estate broker, **broker-salesperson** or salesperson at the time when the alleged cause of action arose.

339.170. PENALTY FOR VIOLATION. — Any person or corporation, **professional corporation, partnership, limited partnership, limited liability company or association** knowingly violating any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall be guilty of a class B misdemeanor. Any officer or agent of a corporation, or any

member, **manager, officer, associate, general partner** or agent of a partnership [or], association, **corporation, professional corporation, limited partnership, or limited liability company who actively participate in such entity's brokerage business**, who shall knowingly and personally participate in or be an accessory to any violation of sections 339.010 to 339.180 and sections 339.710 to 339.860, shall be guilty of a class B misdemeanor. This section shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state. The commission may cause complaint to be filed for violation of section 339.020 in any court of competent jurisdiction, and perform such other acts as may be necessary to enforce the provisions hereof.

339.710. DEFINITIONS. — For purposes of sections 339.010 to 339.180, and sections 339.710 to 339.860, the following terms mean:

(1) "Adverse material fact", a fact related to the property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

- (a) Environmental hazards affecting the property;
- (b) Physical condition of the property which adversely affects the value of the property;
- (c) Material defects in the property;
- (d) Material defects in the title to the property;
- (e) Material limitation of the party's ability to perform under the terms of the contract;

(2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;

(3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

(4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;

(5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860.

If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:

(a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or

(b) Alter the designated broker's underlying contractual agreement with the client;

(6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860;

(7) "Commercial real estate", any real estate other than real estate containing one to four residential units or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;

(8) "Commission", the Missouri real estate commission;

(9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860 or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;

(10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with the licensee;

(11) "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;

(12) "Designated broker", any individual licensed as a broker who is operating pursuant to the definition of real estate broker as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, **limited partnership**, association, limited liability corporation, **professional corporation**, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, **limited partnership**, association, limited liability [corporation,] **company**, **professional corporation** or corporation. Every real estate **broker** partnership, **limited partnership**, association, [or] limited liability [corporation] **company**, **professional corporation** or corporation shall appoint a designated broker;

(13) "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;

(14) "Dual agency", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;

(15) "Dual agent", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;

(16) "Exclusive brokerage agreement", means a written brokerage agreement which provides that the broker has the sole right, through the broker or through one or more affiliated licensees, to act as the exclusive limited agent, representative, or transaction broker of the client or customer that meets the requirements of section 339.780;

(17) "Licensee", a real estate broker or salesperson as defined in section 339.010;

(18) "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;

(19) "Ministerial acts", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:

(a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;

(b) Responding to telephone inquiries from a person concerning the price or location of property;

(c) Attending an open house and responding to questions about the property from a consumer;

(d) Setting an appointment to view property;

(e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;

(f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;

(g) Describing a property or the property's condition in response to a person's inquiry;

(h) Showing a customer through a property being sold by an owner on his or her own behalf; or

(i) Referral to another broker or service provider;

(20) "Residential real estate", all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term "cooperative housing association" means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or

membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

(21) "Single agent", a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:

(a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate transaction;

(b) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;

(c) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and

(d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;

(22) "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

(23) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860, who:

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

(b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or

(c) Assists another party to the same transaction either solely or through licensee affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

339.845. NOTICE OF DELINQUENT TAXES TO BE SENT BY COMMISSION. — If the commission receives a notice of delinquent taxes from the director of revenue under the provisions of section 324.010 regarding a real estate broker or salesperson, the commission shall immediately send a copy of such notice to the real estate broker with which the real estate broker or salesperson is associated.

344.010. DEFINITIONS. — As used in this chapter the following words or phrases mean:

(1) "Board", the Missouri board of nursing home administrators;

(2) "Long-term care facility", any residential care facility, assisted living facility, intermediate care facility or skilled nursing facility, as defined in section 198.006, RSMo, or similar facility licensed by states other than Missouri;

(3) "Nursing home", any institution or facility defined as an assisted living facility, **residential care facility**, intermediate care facility, or skilled nursing facility for licensing purposes by section 198.006, RSMo, whether proprietary or nonprofit;

(4) "Nursing home administrator", a person who administers, manages, supervises, or is in general administrative charge of a nursing home, whether such individual has an ownership interest in the home, and whether his functions and duties are shared with one or more individuals.

344.020. LICENSE REQUIRED — SEPARATE LICENSE FOR ASSISTED LIVING FACILITIES ADMINISTRATORS, LIMITATIONS OF LICENSE. — No person shall act or serve in the capacity of a nursing home administrator without first procuring a license from the Missouri board of nursing home administrators as provided in sections 344.010 to 344.108. The board may issue a separate license to administrators of **residential care facilities that were licensed as a residential care facility II on or before August 27, 2006, that continues to meet the licensure standards for a residential care facility II in effect on August 27, 2006, and** assisted living facilities, as defined in section 198.006, RSMo. Any individual who receives a license to operate **a residential care facility or** an assisted living facility is not thereby authorized to operate any intermediate care facility or skilled nursing facility as those terms are defined in section 198.006, RSMo.

630.575. COUNCIL CREATED, MEMBERS, DUTIES, TERMS, MEETINGS. — 1. There is hereby established within the department of mental health the "Missouri Eating Disorder Council" which shall consist of the following persons to be selected by and the number of members to be determined by the director of the department of mental health:

- (1) Director's designees from the department of mental health;
- (2) Eating disorder researchers, clinicians, and patient advocacy groups; and
- (3) The general public.

2. The council shall:

(1) Oversee the eating disorder education and awareness programs established in section 630.580.

(2) Identify whether adequate treatment and diagnostic services are available in the state; and

(3) Assist the department of mental health in identifying eating disorder research projects.

3. Members of the council shall serve four-year terms, with the initial terms of the members staggered as two-year, three-year, and four-year terms. The members of the council may be reappointed. The members of the council shall not receive compensation for their service on the council, but may, subject to appropriation, be reimbursed for their actual and necessary expenses incurred as members of the council.

4. The council shall conduct an organizational meeting at the call of the director of the department of mental health. At such meeting, the council shall select a chair and vice chair of the council. Subsequent meetings of the council shall be called as necessary by the chair of the council or the director of the department of mental health.

630.580. EDUCATION AND AWARENESS PROGRAMS ESTABLISHED — COOPERATION OF STATE AGENCIES. — 1. The department of mental health, in collaboration with the departments of health and senior services, elementary and secondary education, and higher education and in consultation with the Missouri eating disorder council established in section 630.575, shall develop and implement the following education and awareness programs:

(1) Health care professional education and training programs designed to prevent and treat eating disorders. Such programs shall include:

(a) Discussion of various strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to prevent eating disorders;

(b) Identification of individuals with eating disorders and those who are at risk for developing an eating disorder;

(c) Conducting a comprehensive assessment of individual and familial health risk factors;

(2) Education and training programs for elementary and secondary and higher education professionals. Such programs shall include:

(a) Distribution of educational materials to middle and high school students in both public and private schools, including but not limited to utilization of the National Women's Health Information Center's Body Wise materials;

(b) Development of a curriculum which focuses on a healthy body image, identifying the warning signs and behaviors associated with an eating disorder, and ways to assist the individual, friends, or family members who may have an eating disorder; and

(3) General eating disorder awareness and education programs.

2. The department of mental health may seek the cooperation and assistance of any state department or agency, as the department deems necessary, in the development and implementation of the awareness and education programs implemented under this section.

[214.290. MINIMUM ENDOWED CARE AND MAINTENANCE FUND ON ELECTION. — Any cemetery operator who within ninety days from the effective date of sections 214.270 to 214.410 elects to operate a cemetery which exists on the effective date of sections 214.270 to 214.410 as an endowed care cemetery or who represents to the public that perpetual, permanent, endowed, continual, eternal care, care of duration or similar care will be furnished cemetery property sold, shall before selling or disposing of any interment space or lots in said cemetery after the date of such election, establish a minimum endowed care and maintenance fund in cash in the amount required by section 214.300 unless an endowed care fund is already in existence to which regular deposits have been made (whether or not the fund then existing shall be in the minimum amount required under section 214.300).]

Approved July 9, 2010

SB 758 [SB 758]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires notes, bonds, and other instruments in writing issued by the bi-state development agency to mature not more than forty years from the date of issuance, rather than thirty years

AN ACT to repeal section 70.373, RSMo, and to enact in lieu thereof one new section relating to interstate compact agencies.

SECTION

A. Enacting clause.

70.373. Additional powers of bi-state agency.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 70.373, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 70.373, to read as follows:

70.373. ADDITIONAL POWERS OF BI-STATE AGENCY. — In further effectuation of that certain compact between the states of Missouri and Illinois heretofore made and entered into on September 20, 1949, the bi-state development agency, created by and under the aforesaid compact, is authorized to exercise the following powers in addition to those heretofore expressly authorized by the aforesaid compact:

(1) To acquire by gift, purchase or lease, sell or otherwise dispose of, and to plan, construct, operate and maintain, or lease to others for operation and maintenance, airports, wharves, docks,

harbors, and industrial parks adjacent to and necessary and convenient thereto, bridges, tunnels, warehouses, grain elevators, commodity and other storage facilities, sewage disposal plants, passenger transportation facilities, and air, water, rail, motor vehicle and other terminal or parking facilities;

(2) To acquire by gift, purchase or lease; to plan, construct, operate, maintain, or lease to or contract with others for operation and maintenance; or lease, sell or otherwise dispose of to any person, firm or corporation, subject to such mortgage, pledge or other security arrangements that the bi-state development agency may require, facilities for the receiving, transferring, sorting, processing, treatment, storage, recovery and disposal of refuse or waste, and facilities for the production, conversion, recovery, storage, use, or use and sale of refuse or waste derived resources, fuel or energy and industrial parks adjacent to and necessary and convenient thereto;

(3) To contract with municipalities or other political subdivisions for the services or use of any facility owned or operated by the bi-state agency, or owned or operated by any such municipality or other political subdivision;

(4) To borrow money for any of the authorized purposes of the bi-state development agency and to issue the negotiable notes, bonds or other instruments in writing of the bi-state development agency in evidence of the sum or sums to be borrowed;

(5) To issue negotiable refunding notes, bonds or other instruments in writing for the purpose of refunding, extending or unifying the whole or any part of its valid indebtedness from time to time outstanding, whether evidenced by notes, bonds or other instruments in writing;

(6) To provide that all negotiable notes, bonds or other instruments in writing issued either pursuant to subdivision (4) or pursuant to subdivision (5) hereof shall be payable, both as to principal and interest, out of the revenues collected for the use of any facility or combination of facilities owned or operated or owned and operated by the bi-state development agency, or out of any other resources of the bi-state development agency, and may be further secured by a mortgage or deed of trust upon any property owned by the bi-state development agency. All notes, bonds or other instruments in writing issued by the bi-state development agency as herein provided shall mature in not to exceed [thirty] **forty** years from the date thereof, shall bear interest at a rate not exceeding fourteen percent per annum, and shall be sold for not less than ninety-five percent of the par value thereof. The bi-state development agency shall have the power to prescribe the details of such notes, bonds or other instruments in writing, and of the issuance and sale thereof, and shall have power to enter into covenants with the holders of such notes, bonds or other instruments in writing, not inconsistent with the powers herein granted to the bi-state development agency, without further legislative authority;

(7) To condemn any and all rights or property, of any kind or character, necessary for the purposes of the bi-state development agency, subject, however, to the provisions of the aforesaid compact; provided, however, that no rights or property of any kind or character, now or hereafter owned, leased, controlled, operated or used, in whole or in part, by any common carrier engaged in interstate commerce or by any grain elevator, shall be taken or appropriated by the bi-state development agency without first obtaining the written consent and approval of such common carrier or of the owner or operator of such grain elevator. If the property to be condemned be situated in the state of Illinois, the said agency shall follow the procedure of the act of the state of Illinois providing for the exercise of the right of eminent domain, and if the property to be condemned be situated in the state of Missouri, the said agency shall follow the procedure provided by the laws of the state of Missouri for the appropriation of land or other property taken for telegraph, telephone or railroad rights-of-way;

(8) To contract and to be contracted with, and to sue and to be sued in contract;

(9) To issue bonds for industrial, manufacturing or commercial facilities located within the bi-state metropolitan district upon the security of the revenue to be derived from such facilities; and, or upon any property held or to be held by it.

Approved July 7, 2010

SB 771 [SB 771]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to financial institutions offering bids to become the official county depositary

AN ACT to repeal sections 110.140, 110.150, and 110.170, RSMo, and to enact in lieu thereof three new sections relating to depositaries for public funds, with penalty provisions.

SECTION

- A. Enacting clause.
- 110.140. Procedure for bidders — disclosure of bids a misdemeanor.
- 110.150. Public opening of bids — computation and payment of interest — rejected bids.
- 110.170. Transferring funds to depositary — liability of collector-treasurer and depositary — duties of township trustees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 110.140, 110.150, and 110.170, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 110.140, 110.150, and 110.170, to read as follows:

110.140. PROCEDURE FOR BIDDERS — DISCLOSURE OF BIDS A MISDEMEANOR. — 1. Any banking corporation or association in the county desiring to bid shall deliver to the clerk of the commission, on or before the first Monday of July at which the selection of depositaries is to be made, a sealed proposal, stating the rate of interest that the banking corporation, or association offers to pay on the funds of the county for the term of two or four years next ensuing the date of the bid, or, if the selection is made for a less term than two or four years, as provided in sections 110.180 and 110.190, then for the time between the date of the bid and the next regular time for the selection of depositaries as fixed by section 110.130.

2. Each bid shall be accompanied by a certified check for not less than the proportion of one and one-half percent of the county **general** revenue of the preceding year as the sum of the part or parts of funds bid for bears to the whole number of the parts, as a guaranty of good faith on the part of the bidder, that if his or her bid should be the highest he or she will provide the security required by section 110.010. Upon his or her failure to give the security required by law, the amount of the certified check shall go to the county as liquidated damages, and the commission may order the county clerk to readvertise for bids.

3. It shall be a misdemeanor, and punishable as such, for the clerk of the commission, or any deputy of the clerk, to directly or indirectly disclose the amount of any bid before the selection of depositaries.

110.150. PUBLIC OPENING OF BIDS — COMPUTATION AND PAYMENT OF INTEREST — REJECTED BIDS. — 1. The county commission, at noon on or before the first Monday of July for the year in which a bid is requested and every second or fourth year thereafter, shall publicly open the bids, and cause each bid to be entered upon the records of the commission, and shall select as the depositaries of all the public funds of every kind and description going into the hands of the county treasurer, and also all the public funds of every kind and description going into the hands of the [ex officio collector] **collector-treasurer** in counties under township organization, the deposit of which is not otherwise provided for by law, the banking corporations or associations whose bids respectively made for one or more of the parts of the funds shall in

the aggregate constitute the largest offer for the payment of interest per annum for the funds; but the commission may reject any and all bids.

2. The interest upon each fund shall be computed upon the daily balances with the depository, and shall be payable to the county treasurer monthly, who shall place the interest to the credit of each individual fund held by the county treasurer; provided, that the interest on any funds collected by the collector of any county of the first classification not having a charter form of government on behalf of any political subdivision or special district shall be credited to such political subdivision or special district.

3. The county clerk shall, in opening the bids, return the certified checks deposited with him to the banks whose bids are rejected, and on approval of the security of the successful bidders return the certified checks to the banks whose bids are accepted.

110.170. TRANSFERRING FUNDS TO DEPOSITARY — LIABILITY OF COLLECTOR-TREASURER AND DEPOSITARY — DUTIES OF TOWNSHIP TRUSTEES. — 1. As soon as the required security is given and approved, the commission shall make an order designating the successful bidders as depositories of the funds until sixty-five days after the time fixed by sections 110.130 to 110.260 for another selection, and thereupon the county treasurer, [and the ex officio collector] **or the collector-treasurer** if the county be under township organization, shall immediately upon the making of the order, transfer to the depositories the part or parts of all funds respectively let to the depositories under the selection, and immediately upon the receipt of any money thereafter deposit it with the depositories to the credit of the county. The said treasurer shall, as nearly as may be, maintain with each of the depositories selected its due and proportionate share of the total of the funds let.

2. For any failure of the county treasurer to make transfer of the funds or to deposit all of the funds with the depositories, whether the same shall come into his hands as treasurer or as [ex officio collector] **collector-treasurer** of the revenue, or otherwise, he is liable to the depositories, respectively, for ten percent per month, during such failure, upon the respective part or parts of said funds not so deposited, to be recovered by civil action.

3. In counties under township organization the township trustee shall deposit all school taxes received by him with the depository selected by the township board of his township as the depository of the township funds; and in default of the selection of a depository by the township board, and during the time when any township has no depository of its funds, the township trustee shall deposit all school taxes and all township funds received by him in any county depository within the township, if there be one; if not, then in the county depository most convenient to the township, and such county depository shall thereupon pay to the township the same rate of interest upon the moneys which it has contracted to pay the county upon its funds, and the township may recover the same by civil action.

Approved July 2, 2010

SB 772 [SCS SB 772]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes the minimum time for holding investments in the Missouri higher education savings program

AN ACT to repeal sections 166.420 and 166.532, RSMo, and to enact in lieu thereof one new section relating to higher education savings programs.

SECTION

- A. Enacting clause.
- 166.420. Participation agreements, terms and conditions — contribution limitation — penalty.
- 166.532. Sunset provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 166.420 and 166.532, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 166.420, to read as follows:

166.420. PARTICIPATION AGREEMENTS, TERMS AND CONDITIONS — CONTRIBUTION LIMITATION — PENALTY. — 1. The board may enter into savings program participation agreements with participants on behalf of beneficiaries pursuant to the provisions of sections 166.400 to 166.455, including the following terms and conditions:

(1) A participation agreement shall stipulate the terms and conditions of the savings program in which the participant makes contributions;

(2) A participation agreement shall specify the method for calculating the return on the contribution made by the participant;

(3) The execution of a participation agreement by the board shall not guarantee that the beneficiary named in any participation agreement will be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted or will graduate from an eligible educational institution;

(4) A participation agreement shall clearly and prominently disclose to participants the risk associated with depositing moneys with the board;

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public; and

(6) A participation agreement shall clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration or services.

2. The board shall establish the maximum amount which may be contributed annually by a participant with respect to a beneficiary.

3. The board shall establish a total contribution limit for savings accounts established under the savings program with respect to a beneficiary to permit the savings program to qualify as a "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code. No contribution may be made to a savings account for a beneficiary if it would cause the balance of all savings accounts of the beneficiary to exceed the total contribution limit established by the board. The board may establish other requirements that it deems appropriate to provide adequate safeguards to prevent contributions on behalf of a beneficiary from exceeding what is necessary to provide for the qualified higher education expenses of the beneficiary.

4. The board shall establish the minimum length of time that contributions and earnings must be held by the savings program to qualify pursuant to section 166.435[, provided that the minimum length of time shall be at least twelve months for the amount of any single contribution]. Any contributions or earnings that are withdrawn or distributed from a savings account prior to the expiration of the minimum length of time, as established by the board, shall be subject to a penalty pursuant to section 166.430.

[166.532. SUNSET PROVISION. — Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under sections 166.500 to 166.532 shall automatically sunset six years after August 28, 2004, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 166.500 to 166.532 shall automatically sunset twelve years after the effective date of the reauthorization of sections 166.500 to 166.532; and

(3) Sections 166.500 to 166.532 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 166.500 to 166.532 is sunset.]

Approved June 14, 2010

SB 774 [SCS SB 774]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates additional measures intended to increase safety at the Department of Mental Health

AN ACT to repeal section 630.220, RSMo, and to enact in lieu thereof two new sections relating to department of mental health protection measures, with penalty provisions.

SECTION

- A. Enacting clause.
- 565.086. Endangering a mental health employee, visitor, or another offender, definitions, penalty.
- 630.220. Court actions by department on behalf of institutions — interest on accounts of patients.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 630.220, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 565.086 and 630.220, to read as follows:

565.086. ENDANGERING A MENTAL HEALTH EMPLOYEE, VISITOR, OR ANOTHER OFFENDER, DEFINITIONS, PENALTY. — **1. An offender commits the crime of endangering a department of mental health employee, a visitor or other person at a secure facility, or another offender if he or she attempts to cause or knowingly causes such individual to come into contact with blood, seminal fluid, urine, feces, or saliva.**

2. For purposes of this section, the following terms mean:

(1) "Department of mental health employee", a person who is an employee of the department of mental health, an employee or contracted employee of a subcontractor of the department of mental health, or an employee or contracted employee of a subcontractor of an entity responsible for confining offenders as authorized by section 632.495;

(2) "Offender", persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator, persons ordered to the department of mental health after a finding of probable cause under section 632.489, and persons committed for control, care, and treatment by the department of mental health under sections 632.480 to 632.513;

(3) "Secure facility", a facility operated by the department of mental health or an entity responsible for confining offenders as authorized by section 632.495.

3. Endangering a department of mental health employee, a visitor or other person at a secure facility, or another offender is a class D felony unless the substance is unidentified, in which case it is a class A misdemeanor. If an offender is knowingly infected with the human immunodeficiency virus (HIV), hepatitis B, or hepatitis C and

exposes another individual to HIV or hepatitis B or hepatitis C by committing the crime of endangering a department of mental health employee, a visitor or other person at a mental health facility, or another offender, it is a class C felony.

630.220. COURT ACTIONS BY DEPARTMENT ON BEHALF OF INSTITUTIONS—INTEREST ON ACCOUNTS OF PATIENTS. — For all debts and demands whatsoever to any of the residential facilities or day programs subject to the control of the department, and for all damages for failure of contract, for trespass and other wrongs to a facility operated by the department, or any of its property thereof, real or personal, actions in any court of competent jurisdiction may be maintained in the name of the director. Interest shall be recovered on any and all sums due any facility or program operated or funded by the department on account of any patient or resident thereof, the account therefor, certified by the [head of the facility, with the seal of the institution attached,] **director or his or her designee** shall be prima facie evidence of the amount due.

Approved June 18, 2010

SB 791 [CCS HCS SB 791]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions pertaining to sewer districts

AN ACT to repeal sections 204.300, 204.472, 204.571, and 250.233, RSMo, and to enact in lieu thereof five new sections relating to utilities.

SECTION

- A. Enacting clause.
- 204.300. Trustees, how appointed, qualifications, expenses reimbursement, compensation — registered professional engineer, may employ.
- 204.472. Sewer service to be provided by agreement for certain annexed areas, procedure (Poplar Bluff, Butler County, counties of the third classification).
- 204.571. Authorized representative, advisory board — organization — recommendations.
- 250.233. Charges for sewer services — notice and public hearing required.
- 393.320. Acquisition of small water utilities, establishment of ratemaking rate base, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 204.300, 204.472, 204.571, and 250.233, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 204.300, 204.472, 204.571, 250.233, and 393.320, to read as follows:

204.300. TRUSTEES, HOW APPOINTED, QUALIFICATIONS, EXPENSES REIMBURSEMENT, COMPENSATION — REGISTERED PROFESSIONAL ENGINEER, MAY EMPLOY. — 1. In all counties except counties of the first classification which have a charter form of government and which contain all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, the governing body of the county, by resolution, order, or ordinance, shall appoint five trustees, the majority of whom shall reside within the boundaries of the district. In the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive officer of the adjoining county shall be an additional member of the appointed board of trustees. The trustees may be paid reasonable compensation by the district for their services; except that, any compensation schedule shall be approved by resolution of the board of trustees. The board of trustees shall be

responsible for the control and operation of the sewer district. The term of each board member shall be five years; except that, members of the governing body of the county sitting upon the board shall not serve beyond the expiration of their term as members of such governing body of the county. The first board of trustees shall be appointed for terms ranging from one to five years so as to establish one vacancy per year thereafter. **If the governing body of the county with the right of appointment under this subsection fails to appoint a trustee to fill a vacancy on the board within sixty days after receiving written notice from the common sewer district of the existence of such vacancy, then the vacancy may be filled by a majority of the remaining members then in office of the board of trustees of such common sewer district.** The trustees may be paid reasonable compensation by the district for their services; except that, any compensation schedule shall be approved by resolution, order, or ordinance of the governing body of the county. Any and all expenses incurred in the performance of their duties shall be reimbursed by the district. The board of trustees shall have the power to employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees shall select a treasurer, who may be either a member of the board of trustees or another qualified individual. The treasurer selected by the board shall give such bond as may be required by the board of trustees. The board of trustees shall appoint the sewer engineer for the county in which the greater part of the district lies as chief engineer for the district, and the sewer engineer shall have the same powers, responsibilities and duties in regard to planning, construction and maintenance of the sewers, and treatment facilities of the district as he now has by virtue of law in regard to the sewer facilities within the county for which he is elected. If there is no sewer engineer in the county in which the greater part of the district lies, the board of trustees may employ a registered professional engineer as chief engineer for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district. The provisions of this subsection shall not apply to any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants.

2. In any county of the first classification which has a charter form of government and which contains all or any portion of a city with a population of three hundred fifty thousand or more inhabitants, and in any county of the first classification without a charter form of government and which has a population of more than sixty-three thousand seven hundred but less than seventy-five thousand, there shall be [an eight-member] **a ten-member** board of trustees to consist of the county executive, the mayors of the [four] **five** cities constituting the largest users by flow during the previous fiscal year, the mayors of [two] **three** cities which are not among the [four] **five** largest users and who are members of the advisory board of the district established pursuant to section 204.310, and one member of the county legislature to be appointed by the county executive, with the concurrence of the county legislature. If the county executive does not appoint such members of the county legislature to the board of trustees within sixty days, the county legislature shall make the appointments. The advisory board members shall be appointed annually by the advisory board. In the event the district extends into any county bordering the county in which the greater portion of the district lies, the number of members on the board of trustees shall be increased to a total of [nine] **eleven** and the presiding commissioner or county executive of the adjoining county shall be an additional member of the board of trustees. The trustees shall receive no compensation for their services, but may be compensated for their reasonable expenses normally incurred in the performance of their duties. The board of trustees may employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees may employ and fix the duties and compensation of an administrator for the district. The administrator shall be the chief executive officer of the district subject to the supervision and direction of the board of trustees and shall exercise the powers, responsibilities and duties heretofore exercised by the chief

engineer prior to September 28, 1983. The administrator of the district may, with the approval of the board of trustees, retain consulting engineers for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district. The provisions of this subsection shall only apply to counties of the first classification which have a charter form of government and which contain all or any portion of a city with a population of three hundred fifty thousand or more inhabitants.

204.472. SEWER SERVICE TO BE PROVIDED BY AGREEMENT FOR CERTAIN ANNEXED AREAS, PROCEDURE (POPLAR BLUFF, BUTLER COUNTY, COUNTIES OF THE THIRD CLASSIFICATION). — 1. (1)

Whenever all or any part of a territory located within a sewer district that is located in any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants is included by annexation within the corporate limits of any city of the third classification with more than sixteen thousand six hundred but less than sixteen thousand seven hundred inhabitants, but is not receiving sewer service from such district or city at the time of such annexation, the city and the board of trustees of the district may, within six months after such annexation becomes effective, develop an agreement to provide sewer service to the annexed territory. Such an agreement may also be developed for territory that was annexed between January 1, 1996, and August 28, 2002, but was not receiving sewer service from such district or such city on August 28, 2002. For the purposes of this section, "not receiving sewer service" shall mean that no sewer services are being sold within the annexed territory by such district or city. If the city and the board reach an agreement that detaches any territory from such district, the agreement shall be submitted to the circuit court having jurisdiction over the major portion, and the circuit court shall make an order and judgment detaching the territory described in the agreement from the remainder of the district and stating the boundary lines of the district after such detachment. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located. If an agreement is developed between a city and a sewer district pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

(2) Whenever all or any part of a territory located within a sewer district that is located in any county of the third classification is included by annexation within the corporate limits of any city, but is not receiving sewer service from such district or city at the time of such annexation, the city and the board of trustees of the district may, within six months after such annexation becomes effective, develop an agreement to provide sewer service to the annexed territory. Such an agreement may also be developed for territory that was annexed prior to August 28, 2010, but was not receiving sewer service from such district or such city as of August 28, 2010. For the purposes of this section, "not receiving sewer service" shall mean that no sewer services are being sold within the annexed territory by such district or city. If the city and the board reach an agreement that detaches any territory from such district, the agreement shall be submitted to the circuit court having jurisdiction over the major portion, and the circuit court shall make an order and judgment detaching the territory described in the agreement from the remainder of the district and stating the boundary lines of the district after such detachment. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located. If an agreement is developed between a city and a sewer district pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

2. In the event that the board of trustees of such district and the city cannot reach such an agreement, an application may be made by the board or the city to the circuit court requesting

that three commissioners develop such an agreement. Such application shall include the name of one commissioner appointed by the applying party. The second party shall appoint one commissioner within thirty days of the service of the application upon the second party. If the second party fails to appoint a commissioner within such time period, the circuit court shall appoint a commissioner on behalf of the second party. Such two named commissioners may agree to appoint a third disinterested commissioner within thirty days after the appointment of the second commissioner. In the event that the two named commissioners cannot agree on or fail to appoint the third disinterested commissioner within thirty days after the appointment of the second commissioner, the circuit court shall appoint the third disinterested commissioner.

3. Upon the filing of such application and the appointment of three such commissioners, the circuit court shall set a time for one or more hearings and shall order a public notice including the nature of the application, the annexed area affected, the names of the commissioners, and the time and place of such hearings, to be published for three weeks consecutively in a newspaper published in the county in which the application is pending, the last publication to be not more than seven days before the date set for the first hearing.

4. The commissioners shall develop an agreement between the district and the city to provide sewer service to the annexed territory. In developing the agreement, the commissioners shall consider information presented to them at hearings and any other information at their disposal including, but not limited to:

(1) The estimated future loss of revenue and costs for the sewer district related to the agreement;

(2) The amount of indebtedness of the sewer district within the annexed territory;

(3) Any contractual obligations of the sewer district within the annexed area; and

(4) The effect of the agreement on the sewer rates of the district.

The agreement shall also include a recommendation for the apportionment of costs incurred pursuant to subsections 2 to 8 of this section, including reasonable compensation for the commissioners, between the city and the district.

5. If the circuit court finds that the agreement provides for necessary sewer service in the annexed territory, then such agreement shall be fully effective upon approval by the circuit court. The circuit court shall also review the recommended apportionment of court costs incurred and the reasonable compensation for the commissioners and affirm or modify such recommendations.

6. The order and judgment of the circuit court shall be subject to appeal as provided by law.

7. If the circuit court approves a detachment as part of the territorial agreement, it shall make its order and judgment detaching the territory described in the application from the remainder of the district and stating the boundary lines of the district after such detachment.

8. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located.

9. The proportion of the sum of all outstanding bonds and debt, with interest thereon, that is required to be paid to the sewer district pursuant to this section, shall be the same as the proportion of the assessed valuation of the real and tangible personal property within the area sought to be detached bears to the assessed valuation of all of the real and tangible personal property within the entire area of the sewer district.

204.571. AUTHORIZED REPRESENTATIVE, ADVISORY BOARD — ORGANIZATION — RECOMMENDATIONS. — An authorized representative, not a member of the common sewer district's advisory board under section 204.310, from each political subdivision which lies partially within a sewer subdistrict formed pursuant to sections 204.565 to 204.573 and which operates or is served by a sewage collection system, together with the representatives of all other such political subdivisions and of each county having territory within the subdistrict, shall

constitute an advisory board for the subdistrict. The advisory board shall organize by electing one of its members as chairman, one as vice chairman, and one as a representative to the common sewer district's advisory board formed pursuant to section 204.310, **however, if the subdistrict advisory board consists of less than three members, then one subdistrict advisory board member may serve in more than one such capacity.** The board of trustees of the common sewer district shall keep the subdistrict advisory board informed, either directly or through the district advisory board, as to all phases of the planning and operations of the subdistrict, and the subdistrict advisory board shall make such recommendations to the common sewer district advisory board as the subdistrict board deems advisable with regard to the construction and operation of sewers and facilities in the subdistrict. **If a county or political subdivision with the right of appointment under this section fails to appoint any subdistrict advisory board member within sixty days after receiving a written request from the common sewer district, then the board of trustees of the common sewer district may make such appointment.**

250.233. CHARGES FOR SEWER SERVICES — NOTICE AND PUBLIC HEARING REQUIRED.

— Any city, town [or], village, **or sewer district** operating a sewerage system or waterworks may establish, make and collect charges for sewerage services, including tap-on fees. The charges may be set as a flat fee or based upon the amount of water supplied to the premises and shall be in addition to those charges which may be levied and collected for maintenance, repair and administration, including debt service expenses. Any private water company or public water supply district supplying water to the premises located within said city, town [or], village, **or sewer district** shall, at reasonable charge upon reasonable request, make available to such city, town [or], village, **or sewer district** its records and books so that such city, town [or], village, **or sewer district** may obtain therefrom such data as may be necessary to calculate the charges for sewer service. Prior to establishing any such sewer charges, public hearings shall be held thereon and at least thirty days' notice shall be given thereof.

393.320. ACQUISITION OF SMALL WATER UTILITIES, ESTABLISHMENT OF RATE MAKING RATE BASE, PROCEDURE. — 1. As used in this section, the following terms mean:

(1) "Large water public utility", a public utility that regularly provides water service or sewer service to more than eight thousand customer connections and that provides safe and adequate service but shall not include a sewer district established under Section 30(a), Article VI of the Missouri Constitution, sewer districts established under the provisions of chapter 204, 249, or 250, public water supply districts established under the provisions of chapter 247, or municipalities that own water or sewer systems;

(2) "Small water utility", a public utility that regularly provides water service or sewer service to eight thousand or fewer customer connections; a water district established under the provisions of chapter 247 that regularly provides water or sewer service to eight thousand or fewer customer connections; a sewer district established under the provisions of chapter 204, 249, or 250 that regularly provides sewer service to eight thousand or fewer customer connections; or a water system or sewer system owned by a municipality that regularly provides water service or sewer service to eight thousand or fewer customer connections; and all other entities that regularly provide water service or sewer service to eight thousand or fewer customer connections.

2. The procedures contained in this section may be chosen by a large water public utility, and if so chosen shall be used by the public service commission to establish the ratemaking rate base of a small water utility during an acquisition.

3. (1) An appraisal shall be performed by three appraisers. One appraiser shall be appointed by the small water utility, one appraiser shall be appointed by the large water public utility, and the third appraiser shall be appointed by the two appraisers so

appointed. Each of the appraisers shall be a disinterested person who is a certified general appraiser under chapter 339.

(2) The appraisers shall:

(a) Jointly prepare an appraisal of the fair market value of the water system and/or sewer system. The determination of fair market value shall be in accordance with Missouri law and with the Uniform Standards of Professional Appraisal Practice; and

(b) Return their appraisal, in writing, to the small water utility and large water public utility in a reasonable and timely manner.

(3) If all three appraisers cannot agree as to the appraised value, the appraisal, when signed by two of the appraisers, constitutes a good and valid appraisal.

4. Nothing in this section shall prohibit a party from declining to proceed with an acquisition or be deemed as establishing the final purchase price of an acquisition.

5. (1) The lesser of the purchase price or the appraised value, together with the reasonable and prudent transaction, closing, and transition costs incurred by the large water public utility, shall constitute the ratemaking rate base for the small water utility as acquired by the acquiring large water public utility; provided, however, that if the small water utility is a public utility subject to chapter 386 and the small water utility completed a rate case prior to the acquisition, the public service commission may select as the ratemaking rate base for the small water utility as acquired by the acquiring large water public utility a ratemaking rate base in between:

(a) The lesser of the purchase price or the appraised value, together with the reasonable and prudent transaction, closing, and transition costs incurred by the large water public utility unless such transaction, closing, and transition costs are elsewhere recoverable in rates; and

(b) The ratemaking rate base of the small water utility as ordered by the public service commission in the small water utility's last previous rate case as adjusted by improvements and depreciation reserve since the previous rate case together with the transaction, closing, and transition costs incurred by the large water public utility unless such transaction, closing, and transition costs are elsewhere recoverable in rates. If the small water utility and large water public utility proceed with the sale, any past due fees due to the state from the small water utility or its customers under chapter 640 or 644 shall be resolved prior to the transfer of ownership or the liability for such past due fees becomes the responsibility of the large water public utility. Such fees shall not be included in the large water public utility's rate base.

(2) The public service commission shall issue its decision establishing the ratemaking rate base of the small water utility in its order approving the acquisition.

6. Any new permit issued pursuant to chapters 640 and 644, when a small water utility is acquired by a large water public utility, shall include a plan to resolve all outstanding permit compliance issues. After the transfer of ownership, the acquiring large water public utility shall continue providing service to all customers that were served by the small water utility at the time of sale.

7. This section is intended for the specific and unique purpose of determining the ratemaking rate base of small water utilities and shall be exclusively applied to large water public utilities in the acquisition of a small water utility. This section is not intended to apply beyond its specific purpose and shall not be construed in any manner to apply to electric corporations, natural gas corporations, or any other utility regulated by the public service commission.

Approved July 7, 2010

SB 793 [SS SCS SB 793]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Enacts provisions regarding informed consent for abortions

AN ACT to repeal sections 188.027, 188.039, and 376.805, RSMo, and to enact in lieu thereof four new sections relating to abortion, with penalty provisions.

SECTION

- A. Enacting clause.
- 188.027. Consent, voluntary and informed, required — procedure, contents — information to be presented in person — alleviation of pain, requirements — medical emergency, procedure — payment prohibited, when — written materials required, when — emergency rules authorized.
- 188.039. Twenty-four hour waiting period for abortions required — medical emergency exception, definition — informed consent requirements — department to provide model consent forms.
- 334.245. Abortions, only physicians to perform — violations, penalty.
- 376.805. Elective abortion to be by optional rider and requires additional premium — elective abortion defined — health insurance exchanges not to offer coverage for elective abortions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 188.027, 188.039, and 376.805, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 188.027, 188.039, 334.245, and 376.805, to read as follows:

188.027. CONSENT, VOLUNTARY AND INFORMED, REQUIRED—PROCEDURE, CONTENTS — INFORMATION TO BE PRESENTED IN PERSON — ALLEVIATION OF PAIN, REQUIREMENTS — MEDICAL EMERGENCY, PROCEDURE — PAYMENT PROHIBITED, WHEN — WRITTEN MATERIALS REQUIRED, WHEN — EMERGENCY RULES AUTHORIZED. — **1. Except in the case of medical emergency**, no abortion shall be performed [except with the prior, informed and written consent freely given of the pregnant woman.] **or induced on a woman without her voluntary and informed consent, given freely and without coercion. Consent to an abortion is voluntary and informed and given freely and without coercion, if and only if, at least twenty-four hours prior to the abortion:**

(1) The physician who is to perform or induce the abortion or a qualified professional has informed the woman, orally, reduced to writing, and in person, of the following:

(a) The name of the physician who will perform or induce the abortion;
(b) Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion, including:

a. A description of the proposed abortion method;
b. The immediate and long-term medical risks to the woman associated with the proposed abortion method including, but not limited to, infection, hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to term, and possible adverse psychological effects associated with the abortion; and

c. The immediate and long-term medical risks to the woman, in light of the anesthesia and medication that is to be administered, the unborn child's gestational age, and the woman's medical history and medical condition;

(c) Alternatives to the abortion which shall include making the woman aware that information and materials shall be provided to her detailing such alternatives to the abortion;

(d) A statement that the physician performing or inducing the abortion is available for any questions concerning the abortion, together with the telephone number that the physician may be later reached to answer any questions that the woman may have;

(e) The location of the hospital that offers obstetrical or gynecological care located within thirty miles of the location where the abortion is performed or induced and at which the physician performing or inducing the abortion has clinical privileges and where the woman may receive follow-up care by the physician if complications arise;

(f) The gestational age of the unborn child at the time the abortion is to be performed or induced; and

(g) The anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed or induced;

(2) The physician who is to perform or induce the abortion or a qualified professional has presented the woman, in person, printed materials provided by the department, which describe the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from conception to full term, including color photographs or images of the developing unborn child at two-week gestational increments. Such descriptions shall include information about brain and heart functions, the presence of external members and internal organs during the applicable stages of development and information on when the unborn child is viable. The printed materials shall prominently display the following statement: "The life of each human being begins at conception. Abortion will terminate the life of a separate, unique, living human being.";

(3) The physician who is to perform or induce the abortion or a qualified professional has presented the woman, in person, printed materials provided by the department, which describe the various surgical and drug-induced methods of abortion relevant to the stage of pregnancy, as well as the immediate and long-term medical risks commonly associated with each abortion method including, but not limited to, infection, hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to term, and the possible adverse psychological effects associated with an abortion;

(4) The physician who is to perform or induce the abortion or a qualified professional shall provide the woman with the opportunity to view at least twenty-four hours prior to the abortion an active ultrasound of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible. The woman shall be provided with a geographically indexed list maintained by the department of health care providers, facilities, and clinics that perform ultrasounds, including those that offer ultrasound services free of charge. Such materials shall provide contact information for each provider, facility, or clinic including telephone numbers and, if available, web site addresses. Should the woman decide to obtain an ultrasound from a provider, facility, or clinic other than the abortion facility, the woman shall be offered a reasonable time to obtain the ultrasound examination before the date and time set for performing or inducing an abortion. The person conducting the ultrasound shall ensure that the active ultrasound image is of a quality consistent with standard medical practice in the community, contains the dimensions of the unborn child, and accurately portrays the presence of external members and internal organs, if present or viewable, of the unborn child. The auscultation of fetal heart tone must also be of a quality consistent with standard medical practice in the community. If the woman chooses to view the ultrasound or hear the heartbeat or both at the abortion facility, the viewing or hearing or both shall be provided to her at the abortion facility at least twenty-four hours prior to the abortion being performed or induced;

(5) Prior to an abortion being performed or induced on an unborn child of twenty-two weeks gestational age or older, the physician who is to perform or induce the abortion or a qualified professional has presented the woman, in person, printed materials

provided by the department that offer information on the possibility of the abortion causing pain to the unborn child. This information shall include, but need not be limited to, the following:

(a) At least by twenty-two weeks of gestational age, the unborn child possesses all the anatomical structures, including pain receptors, spinal cord, nerve tracts, thalamus, and cortex, that are necessary in order to feel pain;

(b) A description of the actual steps in the abortion procedure to be performed or induced, and at which steps the abortion procedure could be painful to the unborn child;

(c) There is evidence that by twenty-two weeks of gestational age, unborn children seek to evade certain stimuli in a manner that in an infant or an adult would be interpreted as a response to pain;

(d) Anesthesia is given to unborn children who are twenty-two weeks or more gestational age who undergo prenatal surgery;

(e) Anesthesia is given to premature children who are twenty-two weeks or more gestational age who undergo surgery;

(f) Anesthesia or an analgesic is available in order to minimize or alleviate the pain to the unborn child;

(6) The physician who is to perform or induce the abortion or a qualified professional has presented the woman, in person, printed materials provided by the department explaining to the woman alternatives to abortion she may wish to consider. Such materials shall:

(a) Identify on a geographical basis public and private agencies available to assist a woman in carrying her unborn child to term, and to assist her in caring for her dependent child or placing her child for adoption, including agencies commonly known and generally referred to as pregnancy resource centers, crisis pregnancy centers, maternity homes, and adoption agencies. Such materials shall provide a comprehensive list by geographical area of the agencies, a description of the services they offer, and the telephone numbers and addresses of the agencies; provided that such materials shall not include any programs, services, organizations, or affiliates of organizations, that perform or induce, or assist in the performing or inducing, of abortions or that refer for abortions;

(b) Explain the Missouri alternatives to abortion services program under section 188.325, and any other programs and services available to pregnant women and mothers of newborn children offered by public or private agencies which assist a woman in carrying her unborn child to term and assist her in caring for her dependent child or placing her child for adoption, including, but not limited to prenatal care; maternal health care; newborn or infant care; mental health services; professional counseling services; housing programs; utility assistance; transportation services; food, clothing, and supplies related to pregnancy; parenting skills; educational programs; job training and placement services; drug and alcohol testing and treatment; and adoption assistance;

(c) Identify the state web site for the Missouri alternatives to abortion services program under section 188.325, and any toll-free number established by the state operated in conjunction with the program;

(d) Prominently display the statement: "There are public and private agencies willing and able to help you carry your child to term, and to assist you and your child after your child is born, whether you choose to keep your child or place him or her for adoption. The state of Missouri encourages you to contact those agencies before making a final decision about abortion. State law requires that your physician or a qualified professional give you the opportunity to call agencies like these before you undergo an abortion.";

(7) The physician who is to perform or induce the abortion or a qualified professional has presented the woman, in person, printed materials provided by the department explaining that the father of the unborn child is liable to assist in the support of the child,

even in instances where he has offered to pay for the abortion. Such materials shall include information on the legal duties and support obligations of the father of a child, including, but not limited to, child support payments, and the fact that paternity may be established by the father's name on a birth certificate or statement of paternity, or by court action. Such printed materials shall also state that more information concerning paternity establishment and child support services and enforcement may be obtained by calling the family support division within the Missouri department of social services; and

(8) The physician who is to perform or induce the abortion or a qualified professional shall inform the woman that she is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

2. All information required to be provided to a woman considering abortion by subsection 1 of this section shall be presented to the woman individually, in the physical presence of the woman and in a private room, to protect her privacy, to maintain the confidentiality of her decision, to ensure that the information focuses on her individual circumstances, to ensure she has an adequate opportunity to ask questions, and to ensure that she is not a victim of coerced abortion. Should a woman be unable to read materials provided to her, they shall be read to her. Should a woman need an interpreter to understand the information presented in the written materials, an interpreter shall be provided to her. Should a woman ask questions concerning any of the information or materials, answers shall be provided in a language she can understand.

3. No abortion shall be performed or induced unless and until the woman upon whom the abortion is to be performed or induced certifies in writing on a checklist form provided by the department that she has been presented all the information required in subsection 1 of this section, that she has been provided the opportunity to view an active ultrasound image of the unborn child and hear the heartbeat of the unborn child if it is audible, and that she further certifies that she gives her voluntary and informed consent, freely and without coercion, to the abortion procedure.

4. No abortion shall be performed or induced on an unborn child of twenty-two weeks gestational age or older unless and until the woman upon whom the abortion is to be performed or induced has been provided the opportunity to choose to have an anesthetic or analgesic administered to eliminate or alleviate pain to the unborn child caused by the particular method of abortion to be performed or induced. The administration of anesthesia or analgesics shall be performed in a manner consistent with standard medical practice in the community.

5. No physician shall perform or induce an abortion unless and until the physician has obtained from the woman her voluntary and informed consent given freely and without coercion. If the physician has reason to believe that the woman is being coerced into having an abortion, the physician or qualified professional shall inform the woman that services are available for her and shall provide her with private access to a telephone and information about such services, including but not limited to the following:

- (1) Rape crisis centers, as defined in section 455.003;
- (2) Shelters for victims of domestic violence, as defined in section 455.200; and
- (3) Orders of protection, pursuant to chapter 455.

6. No physician shall perform or induce an abortion unless and until the physician has received and signed a copy of the form prescribed in subsection 3 of this section. The physician shall retain a copy of the form in the patient's medical record.

7. In the event of a medical emergency as provided by section 188.075, the physician who performed or induced the abortion shall clearly certify in writing the nature and circumstances of the medical emergency. This certification shall be signed by the physician who performed or induced the abortion, and shall be maintained under section 188.060.

8. No person or entity shall require, obtain, or accept payment for an abortion from or on behalf of a patient until at least twenty-four hours has passed since the time that the information required by subsection 1 has been provided to the patient. Nothing in this subsection shall prohibit a person or entity from notifying the patient that payment for the abortion will be required after the twenty-four-hour period has expired if she voluntarily chooses to have the abortion.

9. The term "qualified professional" as used in this section shall refer to a physician, physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting under the supervision of the physician performing or inducing the abortion, and acting within the course and scope of his or her authority provided by law. The provisions of this section shall not be construed to in any way expand the authority otherwise provided by law relating to the licensure, registration, or scope of practice of any such qualified professional.

10. By November 30, 2010, the department shall produce the written materials and forms described in this section. Any written materials produced shall be printed in a typeface large enough to be clearly legible. All information shall be presented in an objective, unbiased manner designed to convey only accurate scientific and medical information. The department shall furnish the written materials and forms at no cost and in sufficient quantity to any person who performs or induces abortions, or to any hospital or facility that provides abortions. The department shall make all information required by subsection 1 of this section available to the public through its department web site. The department shall maintain a toll-free, twenty-four-hour hotline telephone number where a caller can obtain information on a regional basis concerning the agencies and services described in subsection 1 of this section. No identifying information regarding persons who use the web site shall be collected or maintained. The department shall monitor the web site on a regular basis to prevent tampering and correct any operational deficiencies.

11. In order to preserve the compelling interest of the state to ensure that the choice to consent to an abortion is voluntary and informed, and given freely and without coercion, the department shall use the procedures for adoption of emergency rules under section 536.025 in order to promulgate all necessary rules, forms, and other necessary material to implement this section by November 30, 2010.

188.039. TWENTY-FOUR HOUR WAITING PERIOD FOR ABORTIONS REQUIRED — MEDICAL EMERGENCY EXCEPTION, DEFINITION — INFORMED CONSENT REQUIREMENTS — DEPARTMENT TO PROVIDE MODEL CONSENT FORMS. — 1. For purposes of this section, "medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

2. Except in the case of medical emergency, no person shall perform or induce an abortion unless at least twenty-four hours prior thereto [a treating physician] **the physician who is to perform or induce the abortion or a qualified professional** has conferred with the patient and discussed with her the indicators and contraindicators, and risk factors including any physical, psychological, or situational factors for the proposed procedure and the use of medications, including but not limited to mifepristone, in light of her medical history and medical condition. For an abortion performed or an abortion induced by a drug or drugs, such conference shall take place at least twenty-four hours prior to the writing or communication of the first prescription for such drug or drugs in connection with inducing an abortion. Only one such conference shall be required for each abortion.

3. The patient shall be evaluated by [a treating physician] **the physician who is to perform or induce the abortion or a qualified professional** during the conference for indicators and

contraindicators, risk factors including any physical, psychological, or situational factors which would predispose the patient to or increase the risk of experiencing one or more adverse physical, emotional, or other health reactions to the proposed procedure or drug or drugs in either the short or long term as compared with women who do not possess such risk factors.

4. At the end of the conference, and if the woman chooses to proceed with the abortion, [a treating physician] **the physician who is to perform or induce the abortion or a qualified professional** shall sign and shall cause the patient to sign a written statement that the woman gave her informed consent freely and without coercion after the physician **or qualified professional** had discussed with her the indicators and contraindicators, and risk factors, including any physical, psychological, or situational factors. All such executed statements shall be maintained as part of the patient's medical file, subject to the confidentiality laws and rules of this state.

5. The director of the department of health and senior services shall disseminate a model form that physicians **or qualified professionals** may use as the written statement required by this section, but any lack or unavailability of such a model form shall not affect the duties of the physician **or qualified professional** set forth in subsections 2 to 4 of this section.

6. As used in this section, the term "qualified professional" shall refer to a physician, physician assistant, registered nurse, licensed practical nurse, psychologist, licensed professional counselor, or licensed social worker, licensed or registered under chapter 334, 335, or 337, acting under the supervision of the physician performing or inducing the abortion, and acting within the course and scope of his or her authority provided by law. The provisions of this section shall not be construed to in any way expand the authority otherwise provided by law relating to the licensure, registration, or scope of practice of any such qualified professional.

334.245. ABORTIONS, ONLY PHYSICIANS TO PERFORM—VIOLATIONS, PENALTY. — 1. Notwithstanding any other provision of law to the contrary that may allow a person to provide services relating to pregnancy, including prenatal, delivery, and postpartum services, no person other than a licensed physician is authorized to perform or induce an abortion.

2. Any person who violates the provisions of this section is guilty of a class B felony.

376.805. ELECTIVE ABORTION TO BE BY OPTIONAL RIDER AND REQUIRES ADDITIONAL PREMIUM — ELECTIVE ABORTION DEFINED — HEALTH INSURANCE EXCHANGES NOT TO OFFER COVERAGE FOR ELECTIVE ABORTIONS. — 1. No health insurance contracts, plans, or policies delivered or issued for delivery in the state shall provide coverage for elective abortions except by an optional rider for which there must be paid an additional premium. For purposes of this section, an "elective abortion" means an abortion for any reason other than a spontaneous abortion or to prevent the death of the female upon whom the abortion is performed.

2. Subsection 1 of this section shall be applicable to all contracts, plans or policies of:

- (1) All health insurers subject to this chapter; and
- (2) All nonprofit hospital, medical, surgical, dental, and health service corporations subject to chapter 354, RSMo; and
- (3) All health maintenance organizations.

3. No health insurance exchange established within this state or any health insurance exchange administered by the federal government or its agencies within this state shall offer health insurance contracts, plans, or policies that provide coverage for elective abortions, nor shall any health insurance exchange operating within this state offer coverage for elective abortions through the purchase of an optional rider.

4. This section shall be applicable only to contracts, plans or policies written, issued, renewed or revised, after September 28, 1983. For the purposes of this subsection, if new

premiums are charged for a contract, plan or policy, it shall be determined to be a new contract, plan or policy.

No action taken by Governor, bill becomes law pursuant to Article III, Section 31, of the Missouri Constitution.

SB 795 [CCS HCS SB 795]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts individuals in the Southeast Missouri Regional Water District who use explosive materials for unclogging agricultural irrigation wells from certain blasting safety requirements

AN ACT to repeal sections 196.316, 266.355, 270.260, 270.400, 273.327, 273.329, 274.180, 281.260, 311.550, 319.306, 319.321, 393.1025, and 393.1030, RSMo, and to enact in lieu thereof thirty new sections relating to animals and agriculture, with penalty provisions, and an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 196.316. License requirements — applications — kinds of licenses — fees — posting.
- 246.310. Inapplicability of certain law regarding abeyance of water and sewer assessments.
- 261.200. Fund created, use of moneys.
- 266.355. Anhydrous ammonia, rules and standards for equipment and handling — director's duties — minimum standards.
- 270.260. Release of swine to live in wild or feral state, penalties.
- 270.270. Russian or European wild boar or wild-caught swine, possessing or transporting through public land without a permit, penalty.
- 270.400. Killing of feral hogs, permitted when — Russian or European wild boar or wild-caught swine, fencing and health standards — animal health fund created.
- 273.327. License annually required to operate animal boarding facilities, pet shops, pounds, dealers and commercial breeders — fees, exemption from fees for certain licensees.
- 273.329. Director may refuse to license or may revoke licenses, grounds — operation without license, penalty.
- 274.180. Fees paid in lieu of other license or tax.
- 281.260. Registration of pesticides — renewal — fees — powers of director — cancellation of registration on notice and hearing — experimental use permit issued when — revocation.
- 311.550. Additional revenue charges — fines and penalties.
- 319.306. Blaster's license required, when — application, contents — fee — qualifications — expiration — documentation required — training required — rulemaking authority.
- 319.321. Inapplicability of law, when.
- 393.1025. Definitions.
- 393.1030. Electric utilities, portfolio requirements — tracking requirements — rulemaking authority — rebate offers — certification of electricity generated.
- 578.600. Citation of law — definitions.
- 578.602. Prohibited acts — purpose of act — permit required, procedure.
- 578.604. Identification number on animal required.
- 578.606. USDA regulations and standards, compliance with required — death of animal, notification of department required.
- 578.608. Animal may be killed, when, by whom — immunity from liability, when — trespass by animal, when.
- 578.610. Death or injury of a human by animal, liability of owner — liability insurance required — escape or release of animal, notification required.
- 578.612. Permit for transport of animal required.
- 578.614. Violations, penalty — exceptions.
- 578.616. Civil forfeiture, when.
- 578.618. Local laws, more restrictive permitted.
- 578.620. Inapplicability of act.
- 578.622. Addition exemptions
- 578.624. Large carnivore fund created, use of moneys.

1. Unavailability of use of certain moneys.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 196.316, 266.355, 270.260, 270.400, 273.327, 273.329, 274.180, 281.260, 311.550, 319.306, 319.321, 393.1025, and 393.1030, RSMo, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 196.316, 246.310, 261.200, 266.355, 270.260, 270.270, 270.400, 273.327, 273.329, 274.180, 281.260, 311.550, 319.306, 319.321, 393.1025, 393.1030, 578.600, 578.602, 578.604, 578.606, 578.608, 578.610, 578.612, 578.614, 578.616, 578.618, 578.620, 578.622, 578.624, and 1, to read as follows:

196.316. LICENSE REQUIREMENTS — APPLICATIONS — KINDS OF LICENSES — FEES — POSTING. — 1. All persons engaged in buying, selling, trading or trafficking in, or processing eggs, except those listed in section 196.313, shall be required to be licensed under sections 196.311 to 196.361. Such persons shall file an annual application for such license on forms to be prescribed by the director, and shall obtain an annual license for each separate place of business from the director. The following types of licenses shall be issued:

(1) A "retailer's license" shall be required of any person defined as a retailer in section 196.311. A holder of a retailer's license shall not, by virtue of such license, be permitted or authorized to buy eggs from any person other than a licensed dealer, and any retailer desiring to buy eggs from persons other than licensed dealers, shall obtain a dealer's license in addition to a retailer's license.

(2) A "dealer's license" shall be required of any person defined as a dealer in section 196.311. A holder of a dealer's license shall not, by virtue of such license, be authorized or permitted to sell eggs to consumers, and any dealer desiring to sell eggs to consumers shall obtain a retailer's license in addition to a dealer's license.

(3) A "processor's license" shall be required of any person defined as a processor in section 196.311. A holder of a processor's license shall not, by virtue of such license, be authorized or permitted to sell eggs in the shell to other persons, and any person desiring to sell eggs in the shell to other persons, shall obtain a dealer's license in addition to a processor's license.

2. The annual license fee shall be:

(1) Retailers \$ 5.00

(2) Dealers — License fees for dealers shall be determined on the basis of cases (30 dozen per case) of eggs sold in the shell in any one week, as follows:

(a) 1 to 25 cases \$ 5.00

(b) 26 to 50 cases 12.50

(c) 51 to 100 cases 25.00

(d) more than 100 cases 50.00

(3) Processors — License fees for processors shall be determined on the basis of cases (30 dozen per case) of eggs, or the equivalent in liquid or frozen eggs, processed in any one day, as follows:

(a) Less than 50 cases \$ 25.00

(b) More than 50 and less than 250 cases 50.00

(c) More than 250 and less than 1000 cases 75.00

(d) More than 1000 cases 100.00

3. All licenses shall be conspicuously posted in the place of business to which it applies. The license year shall be twelve months, or any fraction thereof, beginning July first and ending June thirtieth.

4. No license shall be transferable, but it may be moved from one place to another by the consent of the director.

5. All moneys received from license fees collected hereunder shall be deposited in the state treasury to the credit of the [agricultural fees] **agriculture protection fund created in section 261.200.**

246.310. INAPPLICABILITY OF CERTAIN LAW REGARDING ABEYANCE OF WATER AND SEWER ASSESSMENTS. — The provisions of section 262.802 shall not apply to any drainage district or levee district formed under the laws of this state.

261.200. FUND CREATED, USE OF MONEYS. — 1. Any laws to the contrary notwithstanding, there is hereby created in the state treasury the "Agriculture Protection Fund", which shall consist of any monies or fees appropriated to the fund as well as all fees assessed and collected by the department of agriculture which are not otherwise placed in the state treasury to the credit of the particular purpose or fund for which the fees are collected. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements of the fund. Upon appropriation by the general assembly, money in the fund shall be used solely by the department of agriculture for the purposes of carrying out its functions and responsibilities, and no money shall be paid out of the fund created under this section except by appropriation of the general assembly for the administration of the program from which the fee was collected; except that, the provisions of this section shall not apply to any moneys credited to the fund under subdivision (2) of subsection 1 of section 311.550.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

266.355. ANHYDROUS AMMONIA, RULES AND STANDARDS FOR EQUIPMENT AND HANDLING — DIRECTOR'S DUTIES — MINIMUM STANDARDS. — Unless provided for by federal law, rule or regulation, the director of the department of agriculture shall promulgate, pursuant to chapter 536, RSMo, and enforce regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck, tank trailer, tank car and utilizing anhydrous ammonia. The provisions of this section shall not apply to equipment which is in use for storing anhydrous ammonia as of [September 28, 1983] **August 28, 2010**, and which is found by the department to be in substantial compliance with generally accepted standards of safety regarding life and property. **The department shall adopt the minimum general safety standards for the storage and handling of anhydrous ammonia set forth in ANSI Standard K61.1-1999, Safety Requirements for the Storage and Handling of Anhydrous Ammonia; except that, ANSI Standard K61.1-1999 shall not be adopted by the department prior to December 1, 2012. For purposes of this section, "ANSI" means the American National Standards Institute.**

270.260. RELEASE OF SWINE TO LIVE IN WILD OR FERAL STATE, PENALTIES. — 1. Any person who **recklessly** or knowingly releases any swine to live in a wild or feral state upon any public land or private land not completely enclosed by a fence capable of containing such animals is guilty of a class A misdemeanor. Each swine so released shall be a separate offense.

2. Every person who has previously pled guilty to or been found guilty of violating the provisions of this section, committed on two separate occasions where such offense

occurred within ten years of the date of the occurrence of the present offense and who subsequently pleads guilty to or is found guilty of violating this section shall be guilty of a class D felony.

3. Nothing in this section shall be construed to criminalize the accidental escape of domestic swine.

270.270. RUSSIAN OR EUROPEAN WILD BOAR OR WILD-CAUGHT SWINE, POSSESSING OR TRANSPORTING THROUGH PUBLIC LAND WITHOUT A PERMIT, PENALTY. — 1. Any person possessing or transporting live Russian or European wild boar or wild-caught swine on or through public land without a Missouri department of agriculture permit is guilty of a class A misdemeanor. Each violation of this subsection shall be a separate offense.

2. Any law enforcement officer, any agent of the conservation commission, or the state veterinarian is authorized to enforce the provisions of this section, section 270.260, and section 270.400.

270.400. KILLING OF FERAL HOGS, PERMITTED WHEN — RUSSIAN OR EUROPEAN WILD BOAR OR WILD-CAUGHT SWINE, FENCING AND HEALTH STANDARDS — ANIMAL HEALTH FUND CREATED. — 1. For purposes of this section, the term "feral hog" means any hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission.

2. A person may kill a feral hog roaming freely upon such person's land and shall not be liable to the owner of the hog for the loss of the hog.

3. Any person may take or kill a feral hog on public land or private land with the consent of the landowner; except that, during the firearms deer and turkey hunting season the regulations of the Missouri wildlife code shall apply. Such person shall not be liable to the owner of the hog for the loss of such hog.

4. No person except a landowner or such landowner's agent on such landowner's property shall take, **attempt to take**, or kill a feral hog with the use of an artificial light.

5. The director of the department of agriculture shall promulgate rules for fencing and health standards for Russian and European wild boar and wild-caught swine held alive on private land. Any person holding Russian or European wild boar or wild-caught swine on private land shall annually submit an application to the department for a permit. Any applicant that successfully meets the requirements under this section as determined by the department and pays an application fee shall be issued a permit.

6. Russian and European wild boar and wild-caught swine may move only from a farm to a farm or directly to slaughter or to a slaughter-only market. The department shall promulgate rules for exemption permits and a fee structure to offset the actual and necessary costs incurred to enforce the provisions of this section.

7. (1) There is hereby created in the state treasury the "Animal Health Fund", which shall consist of all fees and administrative penalties collected by the department of agriculture under this section and section 270.260. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. Upon appropriation, moneys in the fund shall be used for the administration of this section and section 270.260.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

8. Any person who violates subsection 2 of section 270.260 may, in addition to the penalty imposed under section 270.260, be assessed an administrative penalty of up to one thousand dollars per violation. Any person who is assessed an administrative penalty under this section shall be notified in writing of the right to appeal. Such person may request a hearing before the director of the department of agriculture. Such request shall be made in writing no later than thirty days after the date on which the person was notified of the violation of section 270.260.

9. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

10. Nothing in this section shall be construed to apply to domestic swine.

273.327. LICENSE ANNUALLY REQUIRED TO OPERATE ANIMAL BOARDING FACILITIES, PET SHOPS, POUNDS, DEALERS AND COMMERCIAL BREEDERS — FEES, EXEMPTION FROM FEES FOR CERTAIN LICENSEES. — No person shall operate an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited show or exhibit, or act as a dealer or commercial breeder, unless [he] **such person** has obtained a license for such operations from the director. An applicant shall obtain a separate license for each separate physical facility subject to sections 273.325 to 273.357 which is operated by the applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357 may voluntarily apply for a license. Application for such license shall be made in the manner provided by the director. The license shall expire annually unless revoked. As provided by rules to be promulgated by the director, the license fee shall range from one hundred to five hundred dollars per year. Pounds[,] or dog pounds [and animal shelters] shall be exempt from payment of such fee. License fees shall be levied for each license issued or renewed on or after January 1, 1993.

273.329. DIRECTOR MAY REFUSE TO LICENSE OR MAY REVOKE LICENSES, GROUNDS — OPERATION WITHOUT LICENSE, PENALTY. — 1. The director may refuse to issue or renew or may revoke a license on any one or more of the following grounds:

(1) Material and deliberate misstatement in the application for any original license or for any renewal license under sections 273.325 to 273.357;

(2) Disregard or violation of sections 273.325 to 273.357 or of any rules promulgated pursuant thereto;

(3) Conviction of any violation of any state or federal law relating to the disposition or treatment of animals;

(4) Failure to provide adequate food, water, housing or sanitary facilities for animals under the control of an animal shelter, boarding kennel, commercial breeder, commercial kennel, contract kennel, dealer, pet shop, pound, or exhibitor as defined by regulations of the USDA.

2. **The department of agriculture shall not retain, contract with, or otherwise utilize the services of the personnel of any nonprofit organization for the purpose of inspection or licensing of any animal shelter, pound, or dog pound, boarding kennel, commercial kennel, contract kennel, commercial breeder, hobby or show breeder, or pet shop under sections 273.325 to 273.357.**

3. Operation of an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, or activity as a commercial breeder or dealer without a valid license shall constitute a class A misdemeanor.

274.180. FEES PAID IN LIEU OF OTHER LICENSE OR TAX. — Each association organized hereunder shall pay an annual fee of ten dollars only, in lieu of all franchise or license or corporation or other taxes, **including state sales taxes**, or taxes or charges upon reserves held by it for members.

281.260. REGISTRATION OF PESTICIDES — RENEWAL — FEES — POWERS OF DIRECTOR — CANCELLATION OF REGISTRATION ON NOTICE AND HEARING — EXPERIMENTAL USE PERMIT ISSUED WHEN — REVOCATION. — 1. Every pesticide which is distributed, sold, offered for sale or held for sale within this state, or which is delivered for transportation or transported in intrastate commerce or between points within this state through any point outside of this state, shall be registered in the office of the director, and the registration shall be renewed annually.

2. The registrant shall file with the director a statement including:

- (1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;
- (2) The name of the pesticide;
- (3) Classification of the pesticide; and
- (4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use.

3. The registrant shall pay an annual fee of [fifteen] **one hundred fifty** dollars for each product registered in any calendar year or part thereof. The fee shall be deposited in the state treasury to the credit of the [general revenue fund] **agriculture protection fund created in section 261.200 to be used solely to administer the pest and pesticide programs of the department of agriculture. If the funding exceeds the reasonable costs to administer the programs as set forth herein, the department of agriculture shall reduce fees for all registrants if the fees derived exceed the reasonable cost of administering the pest and pesticide programs of the department of agriculture.** All such registrations shall expire on December thirty-first of any one year, unless sooner canceled. A registration for a special local need pursuant to subsection 6 of this section, which is disapproved by the federal government, shall expire on the effective date of the disapproval.

4. Any registration approved by the director and in effect on the thirty-first day of December for which a renewal application has been made and the proper fee paid shall continue in full force and effect until such time as the director notifies the applicant that the registration has been renewed, or otherwise denied, in accord with the provisions of subsection 8 of this section. Forms for reregistration shall be mailed to registrants at least ninety days prior to the expiration date.

5. If the renewal of a pesticide registration is not filed prior to January first of any one year, an additional fee of [five] **fifty** dollars shall be assessed and added to the original fee and shall be paid by the applicant before the registration renewal for that pesticide shall be issued; provided, that, such additional fee shall not apply if the applicant furnishes an affidavit certifying that he did not distribute such unregistered pesticide during the period of nonregistration. The payment of such additional fee is not a bar to any prosecution for doing business without proper registry. **The fee shall be credited to the agriculture protection fund created under section 261.200 to be used solely to administer the pest and pesticide programs of the department of agriculture. If the funding exceeds the reasonable cost to administer the programs as set forth herein, the department of agriculture shall reduce fees for all registrants if the fees derived exceed the reasonable cost of administering the pest and pesticide programs of the department of agriculture.**

6. Provided the state complies with requirements of the federal government to register pesticides to meet special local needs, the director shall require that registrants comply with sections 281.210 to 281.310 and pertinent federal laws and regulations. Where two or more pesticides meet the requirements of this subsection, one shall not be registered in preference to the other.

7. The director may require the submission of the complete formula of any pesticide to approve or deny product registration. If it appears to the director that the composition and efficacy of the pesticide is such as to warrant the proposed claims for it and if the pesticide and its labeling and other material required to be submitted comply with the requirements of sections 281.210 to 281.310, he shall register the pesticide.

8. Provided the state is authorized to issue experimental use permits, the director may:

(1) Issue an experimental use permit to any person applying for an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under sections 281.210 to 281.310. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed;

(2) Prescribe terms, conditions, and period of time for the experimental permit which shall be under the supervision of the director;

(3) Revoke any experimental permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

9. If it does not appear to the director that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of sections 281.210 to 281.310 or with federal laws, he shall notify the registrant of the manner in which the pesticide, labeling, or other material required to be submitted fail to comply with sections 281.210 to 281.310 or with federal laws so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that the pesticide be registered or, in the case of a pesticide that is already registered, that it not be canceled, the director, within ninety days, shall hold a public hearing to determine if the pesticide in question should be registered or canceled. If, after such hearing, it is determined that the pesticide should not be registered or that its registration should be canceled, the director may refuse registration or cancel an existing registration until the required label changes are accomplished. If the pesticide is shown to be in compliance with sections 281.210 to 281.310 and federal laws, the pesticide will be registered. Any appeals resulting from administrative decisions by the director will be taken in accordance with sections 536.100 to 536.140, RSMo.

10. Notwithstanding any other provision of sections 281.210 to 281.310, registration is not required in the case of a pesticide shipped from one plant or warehouse within this state to another plant or warehouse within this state when such plants are operated by the same persons.

11. The director shall not make any lack of essentiality a criterion for denying registration of a pesticide except where none of the labeled uses are present in the state. Where two or more pesticides meet the requirements of sections 281.210 to 281.310, one shall not be registered in preference to the other.

12. Notwithstanding any other provision of law to the contrary, the director may allow a reasonable period of time for the retailer to dispose of existing stocks of pesticides after the manufacturer or distributor has ceased to register the product with the state. The method of disposal shall be determined by the director.

311.550. ADDITIONAL REVENUE CHARGES — FINES AND PENALTIES. — 1. In addition to all other licenses and charges, there shall be paid to and collected by the director of revenue charges as follows:

(1) For the privilege of selling in the state of Missouri spirituous liquors, including brandy, rum, whiskey, and gin, and other spirituous liquors and alcohol for beverage purposes, there shall be paid, and the director of revenue shall be entitled to receive, the sum of two dollars per gallon or fraction thereof;

(2) For the privilege of selling wines, the sum of thirty cents per gallon **to the credit of the agriculture protection fund created under section 261.200 to be used solely for agricultural business development and marketing-related functions of the department of agriculture.**

2. The person who shall first sell such liquor to any person in this state shall be liable for the payment, except that no refund of any tax collected and remitted to the director of revenue by a retail seller upon gross receipts from a sale of beer, liquor or wine subject to the charges contained in sections 311.520, 311.550 and 311.554 shall be claimed for refund under chapter 144, RSMo, for any amount illegally or erroneously overcharged or overcollected as a result of imposition of sales tax by the retail seller upon amounts representing the charges imposed under this chapter.

3. Any person who sells to any person within this state any intoxicating liquors mentioned in subdivision (1) of subsection 1, unless the charge hereby imposed is paid, is guilty of a felony and shall be punished by imprisonment by the state department of corrections for a term of not less than two years nor more than five years, or by imprisonment in the county jail for a term of not less than one month nor more than one year, or by a fine of not less than fifty dollars nor more than one thousand dollars, or by both such fine and imprisonment.

4. It shall be unlawful for any person to remove the contents of any container containing any of the intoxicating liquors mentioned in subdivision (1) of subsection 1 without destroying such container, or to refill any such container, in whole or in part, with any of the liquors mentioned in subdivision (1) of subsection 1. Any person violating the provisions of this subsection shall be guilty of a misdemeanor.

5. Every manufacturer, out-state solicitor and wholesale dealer licensed under this chapter shall make a true duplicate invoice of the same, showing the date, amount and value of each class of such liquors shipped or delivered, and retain a duplicate thereof, subject to the use and inspection of the supervisor of liquor control and his representatives for two years.

6. Any person who shall sell in this state any intoxicating liquor without first having procured a license from the supervisor of liquor control authorizing him to sell such intoxicating liquor is guilty of a felony and upon conviction shall be punished by imprisonment by the state department of corrections for a term of not less than two years nor more than five years, or by imprisonment in the county jail for a term of not less than three months nor more than one year, or by a fine of not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

319.306. BLASTER'S LICENSE REQUIRED, WHEN — APPLICATION, CONTENTS — FEE — QUALIFICATIONS — EXPIRATION — DOCUMENTATION REQUIRED — TRAINING REQUIRED — RULEMAKING AUTHORITY. — 1. Any individual who uses explosives in Missouri shall obtain a blaster's license, except those exempted in subsection 18 of this section. A person using explosives shall not be required to hold a blaster's license, but all blasting on behalf of a person using explosives shall be performed only by licensed blasters. Applications for a blaster's license or renewal of a blaster's license shall be on a form designated by the Missouri division of fire safety, and shall contain the following:

- (1) The applicant's full name;
- (2) The applicant's home address;
- (3) The applicant's date of birth;
- (4) The applicant's sex;
- (5) The applicant's physical description;
- (6) The applicant's driver's license number;
- (7) The applicant's current place of employment;
- (8) A listing of any other blasting license or certification held by the applicant, to include the name, address, and phone number of the regulatory authority that issued the license or certification;
- (9) Any other information required to fulfill the obligations of sections 319.300 to 319.345.

2. Any individual who has met the qualifications set forth in subsection 4 of this section may apply for a blaster's license.

3. An applicant for a blaster's license shall submit an application fee and two copies of the applicant's photograph with the application submitted to the division of fire safety. The amount of such fee shall be established by rule promulgated by the division of fire safety. The fee established by rule shall be no greater than the cost of administering this section, but shall not exceed one hundred dollars.

4. An applicant for a blaster's license shall:

- (1) Be at least twenty-one years of age;
- (2) Not have willfully violated any provisions of sections 319.300 to 319.345;
- (3) Not have knowingly withheld information or [has not] **have** made any false or fictitious statement intended or likely to deceive in connection with the application;
- (4) Have familiarity and understanding of relevant federal and state laws relating to explosives materials;
- (5) Not have been convicted in any court of, or pled guilty to, a felony;
- (6) Not be a fugitive from justice;
- (7) Not be an unlawful user of any controlled substance in violation of chapter 195, RSMo;
- (8) Except as provided in subsections 11 and 13 of this section, have completed an approved blaster's training course that meets the requirements of subsection 14 of this section and [has] **have** successfully passed the licensing examination under the provisions of subdivisions (1) to (5) of subsection 15 of this section;
- (9) Have accumulated at least one thousand hours of experience directly relating to the use of explosives within two years immediately prior to applying for a blaster's license and shall provide signed documentation from an employer, supervisor, or other responsible party verifying the applicant's experience;
- (10) Not have been adjudicated as mentally defective; and
- (11) Not advocate or knowingly belong to any organization or group that advocates violent action against any federal, state, or local government, or against any person.

5. Any individual holding a blaster's license under the provisions of this section shall promptly notify the division of fire safety if he or she has had any change of material fact relating to any qualification for holding a blaster's license.

6. If the division of fire safety finds that the requirements for a blaster's license have been satisfied, a license shall be issued to the applicant.

7. A blaster's license shall expire three years from the date of issuance. To qualify for a renewal of a blaster's license, an individual will be required to provide documentation of completing eight hours of training in an explosives-related course of instruction that is approved by the division of fire safety, at least half of which shall have been completed within the year prior to renewal. The remainder of such training for renewal of the license may be acquired at any time during the three-year period that a license is valid. Additional training beyond an accumulated eight hours during any three-year period is not valid for more than one subsequent renewal of the license.

8. Each license issued under the provisions of this section shall provide documentation to the license holder in the form of a letter or letter-sized certificate and a card that is approximately two inches by three inches in size. Each shall specify a unique license number, the name of the individual, his or her driver's license number, the individual's photograph, the blaster's license's effective date and its expiration date, and any other record-keeping information needed by the division of fire safety. In addition, the card form of the license shall contain a photographic image of the license holder.

9. Each individual required to have a blaster's license shall keep at least one form of license documentation on his or her person or at the site of blasting and shall provide documentation that he or she has a currently valid license to a representative of the division of fire safety upon a written or verbal request. No enforcement action shall be taken against any individual that

cannot comply with such a request so long as the division of fire safety's records provide documentation that the individual has a valid blaster's license.

10. (1) A blaster's license issued under the provisions of this section may be suspended or revoked by the division of fire safety upon substantial proof that the individual holding the license has:

- (a) Knowingly failed to monitor the use of explosives as provided in section 319.309;
- (b) Negligently or habitually exceeded the limits established under section 319.312;
- (c) Knowingly or habitually failed to create a record of blasts as required by section 319.315;
- (d) Had a change in material fact relating to their qualifications for holding a blaster's license as described in subsection 4 of this section;
- (e) Failed to advise the division of fire safety of any change of material fact relating to his or her qualifications for holding a blaster's license; or
- (f) Knowingly made a material misrepresentation of any information by any means of false pretense, deception, fraud, misrepresentation, or cheating for the purpose of obtaining training or otherwise meeting the qualifications of obtaining a license.

(2) The division of fire safety shall provide any notice of suspension or revocation, as provided in subdivision (1) of this subsection, in writing, sent by certified mail to the last known address of the holder of the license. The notice may also be verbal, but this does not eliminate the requirement for written notice. Upon receipt of a verbal or written notice of suspension or revocation from the division of fire safety, the individual holding the license shall immediately surrender all copies of the license to a representative of the division of fire safety and shall immediately cease all blasting activity.

(3) The individual holding the license may appeal any suspension or revocation to the state blasting safety board established under section 319.324 within forty-five days of the date written notice was received. The division of fire safety shall immediately notify the chairman of the board that an appeal has been received and a hearing before the board shall be held. The board shall consider and make a decision on any appeal received by the division of fire safety within thirty days of the date the appeal is received by the division of fire safety. The board shall make a decision on the appeal by majority vote of the board and shall immediately notify the licensee of its decision in writing. The written statement of the board's decision shall be prepared by the division of fire safety or its designee and shall be approved by the chairman of the board. The approved statement of the board's decision shall be sent by certified mail to the last known address of the holder of the license.

11. Any individual whose license has been expired for a period of three years or less shall be required to successfully pass the examination as provided in subdivisions (1) to (5) of subsection 15 of this section and attend the eight hours of training required for renewal of a license as minimum qualifications for submitting an application for reinstatement of the license. Any individual whose license has been expired for a period of more than three years shall meet the qualifications set forth in subsection 4 of this section, including completing twenty hours of training and passing the examination, prior to applying for a blaster's license.

12. A license may be granted to applicants who within the last three years have held a valid license or certification from any other source if all of the qualifications for obtaining the license or certification meet or exceed the provisions of this section. It is the duty of the division of fire safety to investigate the qualifications required for obtaining a license or certification from any other source. Licenses or certification held prior to the effective date of the rule required by subsection 19 of this section shall be deemed to meet requirements for this subsection, provided that they meet requirements of the rule.

13. A license may be granted upon the application of an individual employed as a blaster on or before December 31, 2000, [and] who has accumulated one thousand hours of training or education pertaining to blasting and experience working for a specific person using explosives within two years immediately prior to applying for a license. The application shall include a

statement of hours of experience in the form of an affidavit signed by the person using explosives who has employed or contracted with the blaster for the preceding two years. Such applicant also shall meet the requirement of subdivisions (1), (2), (3), (4), (5), (6), (7), (10), and (11) of subsection 4 of this section. Any individual granted a license under this subsection shall be limited to blasting performed for the person using explosives submitting the affidavit required by this subsection. Such licensee shall meet the requirements for continuing training required by subsection 7 of this section.

14. (1) The division of fire safety or its authorized agent shall offer annually at least two courses of instruction that fulfill the training requirement [of qualifying] **to qualify** for a blaster's license and two courses that fulfill the training requirement for renewal of a blaster's license. In addition, any person may apply to the division of fire safety for approval of a course of instruction that meets the training requirement of obtaining a blaster's license or renewal of a blaster's license. The application shall include a description of the qualifications of the instructor, a description of instructional materials to be used in the course, and an outline of the subject matter to be taught, including minimum hours of instruction on each topic. The division of fire safety shall review the application regarding the knowledge and experience of proposed instructors, the total hours of training and the adequacy of proposed training in subject matter with regard to the provisions of sections 319.300 to 319.345. If the division of fire safety determines that training proposed by the applicant is adequate, a letter of approval shall be issued to the applicant. The letter of approval shall be effective for a period of three years. If at any time the division of fire safety determines that an approved training course no longer meets the standards of this section, the letter of approval may be revoked with written notice. The division of fire safety or any person providing a course of instruction may charge an appropriate fee to recover the cost of conducting such instruction.

(2) To be approved by the division of fire safety, a blaster's training course shall contain at least twenty hours of instruction to prepare attendees for obtaining a blaster's license the first time, or eight hours of instruction to prepare attendees for obtaining a license renewal.

(3) Any person providing training in a course of instruction approved by the division of fire safety shall submit a list of individuals that attended any such course to the division of fire safety within ten business days after completion of the course.

(4) The division of fire safety shall maintain a current list of persons who provide approved training and shall make this list available by any reasonable means to professional and trade associations, labor organizations, universities, vocational schools, and others upon request.

15. (1) The division of fire safety shall approve a standard examination or examinations for the purpose of qualifying an individual to obtain a blaster's license. Each individual taking the examination shall pay a fee to the division of fire safety, or the division's agent, that is established by rule. Testing fees shall be no greater than what is required to administer the testing provisions of this section and shall not exceed fifty dollars per test.

(2) Except as provided in subsection 11 of this section, no individual shall be allowed to take an examination for purposes of obtaining a blaster's license unless that individual has completed a training course approved by the division of fire safety. The individual must have completed an approved course of instruction as provided in subdivision (1) of subsection 14 of this section no longer than two years prior to taking the examination. The examination may be administered by any person approved to provide a course of instruction, as provided in subdivision (1) of subsection 14 of this section, at the site of instruction, provided that any such examination may, at the discretion of the state fire marshal, be conducted under the supervision of the division of fire safety. The division of fire safety may also administer such examinations at other times and locations.

(3) Standards for passing the examination shall be set by the division of fire safety by rule.

(4) The division of fire safety or its authorized agent shall provide a written statement within thirty days to the individual taking the examination as to whether that individual passed or failed.

(5) Any individual failing to pass the examination may retake the examination within six months without having to complete an additional approved course of instruction. If the individual fails the second examination, the person must complete another course of instruction as required in subdivision (1) of subsection 14 of this section before taking the examination again. No limit will be placed on how many times any individual may take the examination, subject to the provisions of this subdivision.

(6) Individuals having previously taken an approved blaster's training course, and **having** passed an approved examination, and having taken an approved blaster's renewal training course, or that have obtained a blaster's license as provided in subsections 12 and 13 of this section are eligible for renewal of a blaster's license after meeting the requirements of subsection 7 of this section. The fee for renewal of a license shall be the same as the fee specified in subsection 3 of this section.

16. No individual shall load or fire explosives or direct, order, or otherwise cause any individual to load or fire explosives in this state unless that individual has a valid blaster's license or is under the direct supervision and responsibility of an individual having a valid blaster's license. For purposes of this section, "direct supervision" means the supervisor is physically present on the same job site as the individual who is loading or firing explosives. An individual without a blaster's license who is loading or firing explosives while under the direct supervision and responsibility of someone having a blaster's license shall not be in violation of sections 319.300 to 319.345.

17. ~~[Persons]~~ **A person** found guilty of loading or firing explosives, or directing, ordering, or otherwise causing any individual to load or fire explosives in this state without having a valid blaster's license, or that loads and fires explosives without being under the direct supervision and responsibility of an individual holding a blaster's license as provided in sections 319.300 to 319.345, ~~[shall be]~~ **is** guilty of a class B misdemeanor for the first offense or a class A misdemeanor for a second or subsequent offense. Any individual convicted of a class A misdemeanor under the provisions of sections 319.300 to 319.345 shall be permanently prohibited from obtaining a blaster's license in this state.

18. The requirement for obtaining a blaster's license shall not apply to:

(1) Individuals employed by universities, colleges, or trade schools when the use of explosives is confined to instruction or research;

(2) Individuals using explosive materials in the forms prescribed by the official U.S. Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;

(3) Individuals conducting training or emergency operations of any federal, state, or local government including all departments, agencies, and divisions thereof, provided they are acting in their official capacity and in the proper performance of their duties or functions;

(4) Individuals that are members of the armed forces or any military unit of Missouri or the United States who are using explosives while on official training exercises or who are on active duty;

(5) Individuals using pyrotechnics, commonly known as fireworks, including signaling devices such as flares, fuses, and torpedoes;

(6) Individuals using small arms ammunition and components thereof which are subject to the Gun Control Act of 1968, 18 U.S.C., Section 44, and regulations promulgated thereunder;

(7) Any individual performing duties in underground mines regulated by 30 CFR Part 48, Subpart A, 30 CFR Part 57, or performing duties in coal mining regulated by 30 CFR Part 75, and 30 CFR Part 77 of the Code of Federal Regulations, as amended, or using explosives within an industrial furnace;

(8) Any individual having a valid blaster's license or certificate issued under the provisions of any requirement of the U.S. government in which the requirements for obtaining the license or certificate meet or exceed the requirements of sections 319.300 to 319.345;

(9) Individuals using agricultural fertilizers when used for agricultural or horticultural purposes;

(10) Individuals handling explosives while in the act of transporting them from one location to another;

(11) Individuals assisting or training under the direct supervision of a licensed blaster;

(12) Individuals handling explosives while engaged in the process of explosives manufacturing;

(13) Employees, agents, or contractors of rural electric cooperatives organized or operating under chapter 394, RSMo; [and]

(14) Individuals discharging historic firearms and cannon or reproductions of historic firearms and cannon; **and**

(15) Individuals using explosive materials along with a well screen cleaning device for the purpose of unblocking clogged screens of agricultural irrigation wells located within the southeast Missouri regional water district as created in section 256.643.

19. The division of fire safety shall promulgate rules under this section to become effective no later than July 1, 2008. Any individual loading or firing explosives after the effective date of such rule shall obtain a license within one hundred eighty days of the effective date of such rule. Any experience or training prior to the effective date of such rule that meets the standards established by the rule shall be deemed to comply with this section.

319.321. INAPPLICABILITY OF LAW, WHEN. — Sections 319.309, 319.312, 319.315, and 319.318 shall not apply to:

(1) Universities, colleges, or trade schools when confined to the purpose of instruction or research;

(2) The use of explosive materials in the forms prescribed by the official U.S. Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;

(3) The training or emergency operations of any federal, state, or local government including all departments, agencies, and divisions thereof, provided they are acting in their official capacity and in the proper performance of their duties or functions;

(4) The use of explosives by the military or any agency of the United States;

(5) The use of pyrotechnics, commonly known as fireworks, including signaling devices such as flares, fuses, and torpedoes;

(6) The use of small arms ammunition and components thereof which are subject to the Gun Control Act of 1968, 18 U.S.C. Section 44, and regulations promulgated thereunder. Any small arms ammunition and components thereof exempted by the Gun Control Act of 1968 and regulations promulgated thereunder are also exempted from the provisions of sections 319.300 to 319.345;

(7) Any person performing duties using explosives within an industrial furnace;

(8) The use of agricultural fertilizers when used for agricultural or horticultural purposes;

(9) The use of explosives for lawful demolition of structures;

(10) The use of explosives by employees, agents, or contractors of rural electric cooperatives organized or operating under chapter 394, RSMo; [and]

(11) Individuals discharging historic firearms and cannon or reproductions of historic firearms and cannon; **and**

(12) Any person using explosive materials along with a well screen cleaning device for the purpose of unblocking clogged screens of agricultural irrigation wells located within the southeast Missouri regional water district as created in section 256.643.

393.1025. DEFINITIONS. — As used in sections 393.1020 to 393.1030, the following terms mean:

(1) "Commission", the public service commission;

(2) "Department", the department of natural resources;

(3) "Electric utility", any electrical corporation as defined by section 386.020;

(4) "Renewable energy credit" or "REC", a tradeable certificate of proof that one megawatt-hour of electricity has been generated from renewable energy sources; and

(5) "Renewable energy resources", electric energy produced from wind, solar thermal sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, methane from landfills, **from agricultural operations**, or from wastewater treatment, **thermal depolymerization or pyrolysis for converting waste material to energy**, clean and untreated wood such as pallets, hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has a nameplate rating of ten megawatts or less, fuel cells using hydrogen produced by one of the above-named renewable energy sources, and other sources of energy not including nuclear that become available after November 4, 2008, and are certified as renewable by rule by the department.

393.1030. ELECTRIC UTILITIES, PORTFOLIO REQUIREMENTS — TRACKING REQUIREMENTS — RULEMAKING AUTHORITY — REBATE OFFERS — CERTIFICATION OF ELECTRICITY GENERATED. — 1. The commission shall, in consultation with the department, prescribe by rule a portfolio requirement for all electric utilities to generate or purchase electricity generated from renewable energy resources. Such portfolio requirement shall provide that electricity from renewable energy resources shall constitute the following portions of each electric utility's sales:

- (1) No less than two percent for calendar years 2011 through 2013;
- (2) No less than five percent for calendar years 2014 through 2017;
- (3) No less than ten percent for calendar years 2018 through 2020; and
- (4) No less than fifteen percent in each calendar year beginning in 2021.

At least two percent of each portfolio requirement shall be derived from solar energy. The portfolio requirements shall apply to all power sold to Missouri consumers whether such power is self-generated or purchased from another source in or outside of this state. A utility may comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.

2. The commission, in consultation with the department and within one year of November 4, 2008, shall select a program for tracking and verifying the trading of renewable energy credits. An unused credit may exist for up to three years from the date of its creation. A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not also be used to satisfy any similar nonfederal requirement. An electric utility may not use a credit derived from a green pricing program. Certificates from net-metered sources shall initially be owned by the customer-generator. The commission, except where the department is specified, shall make whatever rules are necessary to enforce the renewable energy standard. Such rules shall include:

(1) A maximum average retail rate increase of one percent determined by estimating and comparing the electric utility's cost of compliance with least-cost renewable generation and the cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking into proper account future environmental regulatory risk including the risk of greenhouse gas regulation;

(2) Penalties of at least twice the average market value of renewable energy credits for the compliance period for failure to meet the targets of subsection 1. An electric utility will be excused if it proves to the commission that failure was due to events beyond its reasonable control that could not have been reasonably mitigated, or that the maximum average retail rate increase has been reached. Penalties shall not be recovered from customers. Amounts forfeited under this section shall be remitted to the department to purchase renewable energy credits needed for compliance. Any excess forfeited revenues shall be used by the department's energy center solely for renewable energy and energy efficiency projects;

(3) Provisions for an annual report to be filed by each electric utility in a format sufficient to document its progress in meeting the targets;

(4) Provision for recovery outside the context of a regular rate case of prudently incurred costs and the pass-through of benefits to customers of any savings achieved by an electrical corporation in meeting the requirements of this section.

3. Each electric utility shall make available to its retail customers a standard rebate offer of at least two dollars per installed watt for new or expanded solar electric systems sited on customers' premises, up to a maximum of twenty-five kilowatts per system, that become operational after 2009.

4. The department shall, in consultation with the commission, establish by rule a certification process for electricity generated from renewable resources and used to fulfill the requirements of subsection 1 of this section. Certification criteria for renewable energy generation shall be determined by factors that include fuel type, technology, and the environmental impacts of the generating facility. Renewable energy facilities shall not cause undue adverse air, water, or land use impacts, including impacts associated with the gathering of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources, only the portion of electrical output attributable to renewable energy resources shall be used to fulfill the portfolio requirements.

5. In carrying out the provisions of this section, the commission and the department shall include methane generated from the anaerobic digestion of farm animal waste and thermal depolymerization or pyrolysis for converting waste material to energy as renewable energy resources for purposes of this section.

578.600. CITATION OF LAW — DEFINITIONS. — 1. Sections 578.600 to 578.624 shall be known and may be cited as the "Large Carnivore Act".

2. As used in sections 578.600 to 578.624, the following terms mean:

(1) "Circus", an incorporated, class C licensee that is licensed under Chapter I of Title 9 of the Code of Federal Regulations, that is temporarily in this state, and that offers skilled performances by live animals, clowns, and acrobats for public entertainment;

(2) "Department", the Missouri department of agriculture;

(3) "Division", the division of animal health of the Missouri department of agriculture;

(4) "Facility", an indoor or outdoor cage, pen, or similar enclosure where a large carnivore is kept;

(5) "Humane killing", the same meaning as such term is defined in section 578.005;

(6) "Large carnivore", either of the following:

(a) Any of the following large cats of the Felidae family that are nonnative to this state held in captivity: tiger, lion, jaguar, leopard, snow leopard, clouded leopard, and cheetah, including a hybrid cross with such cat, but excluding any unlisted nonnative cat, or any common domestic or house cat; or

(b) A bear of a species that is nonnative to this state and held in captivity;

(7) "Livestock", the same meaning as such term is defined in section 267.565;

(8) "Permit", a permit issued under section 578.602;

(9) "Qualified veterinarian", a person licensed to practice veterinary medicine under chapter 340.

578.602. PROHIBITED ACTS — PURPOSE OF ACT — PERMIT REQUIRED, PROCEDURE. —

1. Except as permitted under sections 578.600 to 578.624, no person shall:

(1) Own or possess a large carnivore;

(2) Breed a large carnivore;

(3) Transfer ownership or possession of or receive a transfer of ownership or possession of a large carnivore, with or without remuneration; or

(4) Transport a large carnivore.

2. The division shall implement and enforce the provisions of sections 578.600 to 578.624 for the following purposes:

- (1) The standardization of ownership, transport, and breeding of large carnivores;
- (2) Identification and location of large carnivores;
- (3) Protection of members of the public from large carnivores; and
- (4) Practice best husbandry and health care protocols to ensure the humane and safe treatment of large carnivores on behalf of their physical well-being.

3. Any person possessing, breeding, or transporting a large carnivore on or after January 1, 2012, shall apply for and obtain a permit from the division. Any person possessing, breeding, or transporting a large carnivore as of January 1, 2012, shall apply for a permit from the division within sixty days of such date. One permit shall be required for each large carnivore. Any permit so issued by the division shall set forth all of the following:

(1) The name and address of the permit holder and the address where each large carnivore will be kept, if different from that of the permit holder;

(2) The identification number of each large carnivore required under section 578.604 for which a permit is sought;

(3) The name and address of the veterinarian who is expected to provide veterinary care to the large carnivore and, if different, the name and address of the veterinarian who has inserted the subcutaneous microchip required under section 578.604. The selected veterinarian shall install the microchip, collect an appropriate sample for DNA registration, provide a written summary of the physical examination, and provide a signed health certificate as needed for transport; and

(4) Any other reasonable information as determined by the department, including the amount of the permit fee, not to exceed two thousand five hundred dollars, as set by the division to offset the actual and necessary costs incurred to enforce the provisions of sections 578.600 to 578.624 and the amount of the annual renewal fee, not to exceed five hundred dollars, for such permits.

4. No permit shall be issued to any person under the age of twenty-one years of age or who has been found guilty of, or pled guilty to, a violation of any state or local law prohibiting neglect or mistreatment of any animal or, within the previous ten years, any felony.

578.604. IDENTIFICATION NUMBER ON ANIMAL REQUIRED. — The owner of a large carnivore shall have an identification number placed in the large carnivore via subcutaneous microchip, at the expense of the owner, by or under the supervision of a veterinarian.

578.606. USDA REGULATIONS AND STANDARDS, COMPLIANCE WITH REQUIRED — DEATH OF ANIMAL, NOTIFICATION OF DEPARTMENT REQUIRED. — 1. Any person who owns, possesses, breeds, or sells a large carnivore shall adhere to all United States Department of Agriculture regulations and standards.

2. Upon the death of a large carnivore, the owner shall notify the state department of agriculture of such death within ten business days. Such notification shall include the identification number from the animal's subcutaneous microchip.

578.608. ANIMAL MAY BE KILLED, WHEN, BY WHOM — IMMUNITY FROM LIABILITY, WHEN — TRESPASS BY ANIMAL, WHEN. — 1. A law enforcement officer or other person may kill a large carnivore if such officer or person observes or has reason to believe that the large carnivore is chasing, attacking, injuring, or killing:

(1) A human being, whether the large carnivore is contained in or is outside of its enclosure;

(2) Livestock;

(3) Poultry; or

(4) A mammalian pet, only if the large carnivore is outside of its enclosure.

2. No law enforcement officer, animal control officer, or person shall be held civilly liable for damages or otherwise for killing or attempting to kill a large carnivore under subsection 1 of this section.

3. A large carnivore's entry onto a field or enclosure that is owned by or leased by a person producing livestock or poultry constitutes a trespass, and the person who owns or possesses the large carnivore is liable in damages.

578.610. DEATH OR INJURY OF A HUMAN BY ANIMAL, LIABILITY OF OWNER — LIABILITY INSURANCE REQUIRED — ESCAPE OR RELEASE OF ANIMAL, NOTIFICATION REQUIRED. — 1. Any person who owns or possesses a large carnivore is liable in a civil action for the death or injury of a human and for property damage, including but not limited to the death or injury of another animal, caused by the large carnivore. Sections 578.600 to 578.624 do not limit the common law liability of the owner of a large carnivore for the death or injury of a human or for property damage caused by the large carnivore.

2. Any person who owns or possesses a large carnivore shall maintain liability insurance in an amount of not less than two hundred fifty thousand dollars. Each person subject to the provisions of this subsection shall provide verification to the department on an annual basis that such liability insurance is being maintained.

3. If a large carnivore escapes or is released, intentionally or unintentionally, the person who owns or possesses the large carnivore shall immediately contact law enforcement to report the loss, escape, or release. The person who owns or possesses the large carnivore is liable for all expenses associated with efforts to recapture the large carnivore that is released or escapes.

578.612. PERMIT FOR TRANSPORT OF ANIMAL REQUIRED. — A person lawfully in possession of a large carnivore under sections 578.600 to 578.624 shall be required to obtain a permit to transport the large carnivore in a vehicle in compliance with all federal and division requirements applicable to such large carnivores.

578.614. VIOLATIONS, PENALTY — EXCEPTIONS. — 1. Subject to subsection 2 of this section, any person who violates sections 578.600 to 578.624 is guilty of a class A misdemeanor. Any person who fails to obtain a permit as required by sections 578.600 to 578.624 is guilty of a class A misdemeanor. Any person who intentionally releases a large carnivore except to the care, custody, and control of another person is guilty of a class D felony. In addition, a person who violates sections 578.600 to 578.624 may be punished by one or more of the following:

(1) Community service work for not more than five hundred hours;

(2) The loss of privileges to own or possess any animal.

2. Subsection 1 of this section does not apply to a law enforcement officer, animal control officer, qualified veterinarian, or department of agriculture employee with respect to the performance of the duties of a law enforcement officer, animal control officer, qualified veterinarian, or department of agriculture employee under sections 578.600 to 578.624.

578.616. CIVIL FORFEITURE, WHEN. — 1. If a person who owns, possesses, breeds, or sells a large carnivore violates sections 578.600 to 578.624, such large carnivore and any other large carnivore owned or possessed by such person are subject to civil forfeiture.

2. The prosecuting attorney in an action under section 578.614 may file a petition requesting that the court issue an order for civil forfeiture of all of the large carnivores owned or possessed by the person violating sections 578.600 to 578.624.

578.618. LOCAL LAWS, MORE RESTRICTIVE PERMITTED. — A political subdivision may adopt an ordinance governing large carnivores that is more restrictive than sections 578.600 to 578.624. The requirements of sections 578.600 to 578.624 are in addition to any other requirements governing a large carnivore under state and federal law.

578.620. INAPPLICABILITY OF ACT. — 1. Sections 578.602 and 578.604 shall not apply to any of the following:

(1) An animal control shelter or animal protection shelter that is providing temporary care to a large carnivore for ninety days or less and has proper facilities to handle the large carnivore;

(2) A law enforcement officer or department of agriculture employee acting under the authority of sections 578.600 to 578.624;

(3) A veterinarian temporarily in possession of a large carnivore to provide veterinary care for or humanely euthanize the large carnivore;

(4) A class C licensee that possesses and maintains a class C license under 9 C.F.R. 1.1 that meets the following conditions:

(a) The business is not conducted in connection with another business as a means of attracting customers to such other business;

(b) The class C licensee currently owns or possesses a large carnivore on August 28, 2010; except that, any class C licensee whose license is revoked after August 28, 2010, shall be required to obtain a state permit. For any large carnivore acquired after August 28, 2010, the class C licensee shall obtain a state permit.

2. Sections 578.602 and 578.604 shall not apply to a person who is not a resident of this state and who is in this state only for the purpose of travel between locations outside of this state and is not exhibiting in this state.

578.622. ADDITION EXEMPTIONS — Sections 578.600 to 578.624 shall not apply to a circus, the University of Missouri-Columbia College of Veterinary Medicine, or a zoological park that is a part of a district created under chapter 184.

578.624. LARGE CARNIVORE FUND CREATED, USE OF MONEYS. — 1. (1) There is hereby created in the state treasury the "Large Carnivore Fund", which shall consist of moneys collected under sections 578.600 to 578.624, and any gifts, donations, bequests, or appropriations. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. Upon appropriation, money in the fund shall be used solely for the administration of sections 578.600 to 578.624.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 578.600 to 578.624 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. Sections 578.600 to 578.624 and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to

review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

SECTION 1. UNAVAILABILITY OF USE OF CERTAIN MONEYS. — No moneys collected under section 273.327 shall be used to operate or administer sections 578.600 to 578.624.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure compliance with the Missouri administrative hearing commission decision, the repeal and reenactment of section 274.180 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 274.180 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 9, 2010

SB 808 [SCS SB 808]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies compensation and continuing education requirements for public administrators

AN ACT to repeal sections 473.739 and 473.742, RSMo, and to enact in lieu thereof two new sections relating to public administrators.

SECTION

A. Enacting clause.

473.739. Compensation for attendance at training session, certain public administrators, expenses shall be reimbursed, when (certain counties of the first classification).

473.742. Salary schedule for public administrators, certain counties — administrator to choose salary or fee collection — certain administrators may join LAGERS.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 473.739 and 473.742, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 473.739 and 473.742, to read as follows:

473.739. COMPENSATION FOR ATTENDANCE AT TRAINING SESSION, CERTAIN PUBLIC ADMINISTRATORS, EXPENSES SHALL BE REIMBURSED, WHEN (CERTAIN COUNTIES OF THE FIRST CLASSIFICATION). — 1. Each public administrator in counties of the first classification without a charter form of government who does not receive at least twenty-five thousand dollars in fees as otherwise allowed by law shall receive annual compensation of four thousand dollars and each such public administrator who does not receive at least forty-five thousand dollars in fees may request the county salary commission for an increase in annual compensation and the county salary commission may authorize an additional increase in annual compensation not to exceed ten thousand dollars.

2. Two thousand dollars of the compensation authorized in this section shall be payable to the public administrator only if he **or she** has completed at least twenty hours of [classroom] instruction each calendar year relating to the operations of the public administrator's office when approved by a professional association of the county public administrators of Missouri unless exempted from the training by the professional association. The professional association

approving the program shall provide a certificate of completion to each public administrator who completes the training program and shall send a list of certified public administrators to the treasurer of each county. Expenses incurred for attending the training session shall be reimbursed to the county public administrator in the same manner as other expenses as may be appropriated for that purpose.

473.742. SALARY SCHEDULE FOR PUBLIC ADMINISTRATORS, CERTAIN COUNTIES — ADMINISTRATOR TO CHOOSE SALARY OR FEE COLLECTION — CERTAIN ADMINISTRATORS MAY JOIN LAGERS. — 1. Each public administrator in counties of the second, third or fourth classification and in the city of St. Louis shall make a determination within thirty days after taking office whether such public administrator shall elect to receive a salary as defined herein or receive fees as may be allowed by law to executors, administrators and personal representatives. The election by the public administrator shall be made in writing to the county clerk. Should the public administrator elect to receive a salary, the public administrator's office may not then elect to change at any future time to receive fees in lieu of salary.

2. If a public administrator elects to be placed on salary, the salary shall be based upon the average number of open letters in the two years preceding the term when the salary is elected, based upon the following schedule:

- (1) Zero to five letters: Salary shall be a minimum of seven thousand five hundred dollars;
- (2) Six to fifteen letters: Salary shall be a minimum of fifteen thousand dollars;
- (3) Sixteen to twenty-five letters: Salary shall be a minimum of twenty thousand dollars;
- (4) Twenty-six to thirty-nine letters: Salary shall be a minimum of twenty-five thousand dollars;

(5) Public administrators with forty or more letters shall be considered full-time county officials and shall be paid according to the assessed valuation schedule set forth below:

Assessed valuation	Salary
\$8,000,000 to 40,999,999	\$29,000
\$41,000,000 to 53,999,999	\$30,000
\$54,000,000 to 65,999,999	\$32,000
\$66,000,000 to 85,999,999	\$34,000
\$86,000,000 to 99,999,999	\$36,000
\$100,000,000 to 130,999,999	\$38,000
\$131,000,000 to 159,999,999	\$40,000
\$160,000,000 to 189,999,999	\$41,000
\$190,000,000 to 249,999,999	\$41,500
\$250,000,000 to 299,999,999	\$43,000
\$300,000,000 to 449,999,999	\$45,000
\$450,000,000 to 599,999,999	\$47,000
\$600,000,000 to 749,999,999	\$49,000
\$750,000,000 to 899,999,999	\$51,000
\$900,000,000 to 1,049,999,999	\$53,000
\$1,050,000,000 to 1,199,999,999	\$55,000
\$1,200,000,000 to 1,349,999,999	\$57,000
\$1,350,000,000 and over	\$59,000;

(6) The public administrator in the city of St. Louis shall receive a salary not less than sixty-five thousand dollars;

(7) **Two thousand dollars of the compensation authorized in this section shall be payable to the public administrator only if he or she has completed at least twenty hours of instruction each calendar year relating to the operations of the public administrator's office when approved by a professional association of the county public administrators of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion**

to each public administrator who completes the training program and shall send a list of certified public administrators to the treasurer of each county. Expenses incurred for attending the training session shall be reimbursed to the county public administrator in the same manner as other expenses as may be appropriated for that purpose.

3. The initial compensation of the public administrator who elects to be put on salary shall be determined by the average number of letters for the two years preceding the term when the salary is elected. Salary increases or decreases according to the minimum schedule set forth in subsection 1 of this section shall be adjusted only after the number of open letters places the workload in a different subdivision for two consecutive years. Minimum salary increases or decreases shall only take effect upon a new term of office of the public administrator. The number of letters each year shall be determined in accordance with the reporting requirements set forth in law.

4. All fees collected by a public administrator who elects to be salaried shall be deposited in the county treasury or with the treasurer for the city of St. Louis.

5. Any public administrator in a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants who elects to receive fees in lieu of a salary pursuant to this section may elect to join the Missouri local government employees' retirement system created pursuant to sections 70.600 to 70.755, RSMo.

Approved June 29, 2010

SB 834 [SCS SB 834]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes a procedure for the voluntary liquidation and dissolution of domestic stock insurance companies

AN ACT to repeal section 375.1175, RSMo, and to enact in lieu thereof one new section relating to the liquidation of certain domestic insurance companies.

SECTION

A. Enacting clause.

375.1175. Grounds for liquidation — voluntary dissolution and liquidation, conditions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 375.1175, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.1175, to read as follows:

375.1175. GROUNDS FOR LIQUIDATION — VOLUNTARY DISSOLUTION AND LIQUIDATION, CONDITIONS. — **1.** The director may petition the court for an order directing him to liquidate a domestic insurer or an alien insurer domiciled in this state on the basis:

- (1) Of any ground for an order of rehabilitation as specified in section 375.1165, whether or not there has been a prior order directing the rehabilitation of the insurer;
 - (2) That the insurer is insolvent;
 - (3) That the insurer is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors or the public;
 - (4) That the insurer is found to be in such condition after examination that it could not meet the requirements for incorporation and authorization specified in the law under which it was incorporated or is doing business; or
-

(5) That the insurer has ceased to transact the business of insurance for a period of one year.

2. Notwithstanding any other provision of this chapter, a domestic insurer organized as a stock insurance company may voluntarily dissolve and liquidate as a corporation pursuant to sections 351.462 to 351.482, provided that:

(1) The director, in his or her sole discretion, approves the articles of dissolution prior to filing such articles with the secretary of state. In determining whether to approve or disapprove the articles of dissolution, the director shall consider, among other factors, whether:

(a) The insurer's annual financial statements filed with the director show no written insurance premiums for five years; and

(b) The insurer has demonstrated that all policyholder claims have been satisfied or have been transferred to another insurer in a transaction approved by the director; and

(c) An examination of the insurer pursuant to sections 374.202 to 374.207 has been completed within the last five years; and

(2) The domestic insurer files with the secretary of state a copy of the director's approval, certified by the director, along with articles of dissolution as provided in section 351.462 or 351.468.

Approved July 9, 2010

SB 842 [CCS HCS SCS SBs 842, 799 & 809]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding MO HealthNet's authority to collect payment from third party payers

AN ACT to repeal sections 208.010, 208.215, 208.453, 208.895, 208.909, 208.918, 660.300, 660.425, 660.430, 660.435, 660.445, 660.455, 660.460, and 660.465, RSMo, and to enact in lieu thereof sixteen new sections relating to public assistance programs administered by the state, with penalty provisions, and an expiration date for a certain section.

SECTION

- A. Enacting clause.
- 208.010. Eligibility for public assistance, how determined — means test — certain medical assistance benefits to include payment of deductible and coinsurance — prevention of spousal impoverishments, division of assets, community spouse defined — burial lots defined — diversion of institutionalized spouse's income.
- 208.198. Same or similar services, equal reimbursement rate required.
- 208.215. Payer of last resort — liability for debt due the state, ceiling — rights of department, when, procedure, exception — report of injuries required, form, recovery of funds — recovery of medical assistance paid, when — court may adjudicate rights of parties, when.
- 208.453. Hospitals to pay a federal reimbursement allowance for privilege of providing inpatient care, defined — elimination of allowance for certain hospitals.
- 208.895. Referral for services, department duties — contracting for assessments, requirements — expiration date.
- 208.909. Responsibilities of recipients and vendors.
- 208.918. Vendor requirements, philosophy and services.
- 660.023. In-home services providers, telephone tracking system required, use of — rulemaking authority.
- 660.300. Report of abuse or neglect of in-home services or home health agency client, duty — penalty — contents of report — investigation, procedure — confidentiality of report — immunity — retaliation prohibited, penalty — employee disqualification list — safe at home evaluations, procedure.
- 660.425. Home services providers tax imposed, definitions.
- 660.430. Amount of tax, formula — rulemaking authority — appeals.
- 660.435. List of vendors to be provided — record-keeping requirements — report of total payments.
- 660.445. Determination of tax amount — notification to provider — quarterly tax adjustments permitted.
- 660.455. Remittance of tax — fund created — record-keeping requirements.

660.460. Notification of taxes due — unpaid or delinquent amounts, effect of — failure to pay, penalty.
660.465. Expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.010, 208.215, 208.453, 208.895, 208.909, 208.918, 660.300, 660.425, 660.430, 660.435, 660.445, 660.455, 660.460, and 660.465, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 208.010, 208.198, 208.215, 208.453, 208.895, 208.909, 208.918, 660.023, 660.300, 660.425, 660.430, 660.435, 660.445, 660.455, 660.460, and 660.465, to read as follows:

208.010. ELIGIBILITY FOR PUBLIC ASSISTANCE, HOW DETERMINED — MEANS TEST — CERTAIN MEDICAL ASSISTANCE BENEFITS TO INCLUDE PAYMENT OF DEDUCTIBLE AND COINSURANCE — PREVENTION OF SPOUSAL IMPOVERISHMENTS, DIVISION OF ASSETS, COMMUNITY SPOUSE DEFINED — BURIAL LOTS DEFINED — DIVERSION OF INSTITUTIONALIZED SPOUSE'S INCOME. — 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the division of family services to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the division of family services; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining the need of a claimant in federally aided programs there shall be disregarded such amounts per month of earned income in making such determination as shall be required for federal participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When federal law or regulations require the exemption of other income or resources, the division of family services may provide by rule or regulation the amount of income or resources to be disregarded.

2. Benefits shall not be payable to any claimant who:

(1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given away or sold a resource within the time and in the manner specified in this subdivision. In determining the resources of an individual, unless prohibited by federal statutes or regulations, there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this subsection, and subsection 5 of this section) any resource or interest therein owned by such individual or spouse within the twenty-four months preceding the initial investigation, or at any time during which benefits are being drawn, if such individual or spouse gave away or sold such resource or interest within such period of time at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits, including but not limited to benefits based on December, 1973, eligibility requirements, as follows:

(a) Any transaction described in this subdivision shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose;

(b) The resource shall be considered in determining eligibility from the date of the transfer for the number of months the uncompensated value of the disposed of resource is divisible by the average monthly grant paid or average Medicaid payment in the state at the time of the investigation to an individual or on his or her behalf under the program for which benefits are claimed, provided that:

a. When the uncompensated value is twelve thousand dollars or less, the resource shall not be used in determining eligibility for more than twenty-four months; or

b. When the uncompensated value exceeds twelve thousand dollars, the resource shall not be used in determining eligibility for more than sixty months;

(2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes convincing evidence that the uncompensated value of the disposed of resource or any part thereof is no longer possessed or owned by the person to whom the resource was transferred;

(3) Has received, or whose spouse with whom he or she is living has received, benefits to which he or she was not entitled through misrepresentation or nondisclosure of material facts or failure to report any change in status or correct information with respect to property or income as required by section 208.210. A claimant ineligible pursuant to this subsection shall be ineligible for such period of time from the date of discovery as the division of family services may deem proper; or in the case of overpayment of benefits, future benefits may be decreased, suspended or entirely withdrawn for such period of time as the division may deem proper;

(4) Owns or possesses resources in the sum of one thousand dollars or more; provided, however, that if such person is married and living with spouse, he or she, or they, individually or jointly, may own resources not to exceed two thousand dollars; and provided further, that in the case of a temporary assistance for needy families claimant, the provision of this subsection shall not apply;

(5) Prior to October 1, 1989, owns or possesses property of any kind or character, excluding amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, or has an interest in property, of which he or she is the record or beneficial owner, the value of such property, as determined by the division of family services, less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually living together with husband or wife, if the value of his or her property, or the value of his or her interest in property, together with that of such husband and wife, exceeds such amount;

(6) In the case of temporary assistance for needy families, if the parent, stepparent, and child or children in the home owns or possesses property of any kind or character, or has an interest in property for which he or she is a record or beneficial owner, the value of such property, as determined by the division of family services and as allowed by federal law or regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, one automobile which shall not exceed a value set forth by federal law or regulation and for a period not to exceed six months, such other real property which the family is making a good-faith effort to sell, if the family agrees in writing with the division of family services to sell such property and from the net proceeds of the sale repay the amount of assistance received during such period. If the property has not been sold within six months, or if eligibility terminates for any other reason, the entire amount of assistance paid during such period shall be a debt due the state;

(7) Is an inmate of a public institution, except as a patient in a public medical institution.

3. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the income and resources of a relative or other person living in the home shall be taken into account to the extent the income, resources, support and maintenance are allowed by federal law or regulation to be considered.

4. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the value of burial lots or any amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, shall not be taken into account or considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as defined in section 214.270, RSMo, and any memorial, monument, marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436, RSMo, of an irrevocable prearranged funeral or burial contract receives any public assistance benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in interest cancel or amend the contract so that any person will be entitled to a refund, such refund shall be paid to the state of Missouri up to the amount of public assistance benefits provided pursuant to this chapter with any remainder to be paid to those persons designated in chapter 436, RSMo.

5. In determining the total property owned pursuant to subdivision (5) of subsection 2 of this section, or resources, of any person claiming or for whom public assistance is claimed, there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or any two or more policies or contracts, or any combination of policies and contracts, which provides for the payment of one thousand five hundred dollars or less upon the death of any of the following:

- (1) A claimant or person for whom benefits are claimed; or
- (2) The spouse of a claimant or person for whom benefits are claimed with whom he or she is living. If the value of such policies exceeds one thousand five hundred dollars, then the total value of such policies may be considered in determining resources; except that, in the case of temporary assistance for needy families, there shall be disregarded any prearranged funeral or burial contract, or any two or more contracts, which provides for the payment of one thousand five hundred dollars or less per family member.

6. Beginning September 30, 1989, when determining the eligibility of institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall comply with the provisions of the federal statutes and regulations. As necessary, the division shall by rule or regulation implement the federal law and regulations which shall include but not be limited to the establishment of income and resource standards and limitations. The division shall require:

- (1) That at the beginning of a period of continuous institutionalization that is expected to last for thirty days or more, the institutionalized spouse, or the community spouse, may request an assessment by the division of family services of total countable resources owned by either or both spouses;

- (2) That the assessed resources of the institutionalized spouse and the community spouse may be allocated so that each receives an equal share;

- (3) That upon an initial eligibility determination, if the community spouse's share does not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the community spouse a resource allowance to increase the community spouse's share to twelve thousand dollars;

- (4) That in the determination of initial eligibility of the institutionalized spouse, no resources attributed to the community spouse shall be used in determining the eligibility of the institutionalized spouse, except to the extent that the resources attributed to the community spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section 1396r-5;

- (5) That beginning in January, 1990, the amount specified in subdivision (3) of this subsection shall be increased by the percentage increase in the Consumer Price Index for All Urban Consumers between September, 1988, and the September before the calendar year involved; and

(6) That beginning the month after initial eligibility for the institutionalized spouse is determined, the resources of the community spouse shall not be considered available to the institutionalized spouse during that continuous period of institutionalization.

7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods required and for the reasons specified in 42 U.S.C. Section 1396p.

8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to the provisions of section 208.080.

9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the home of the applicant or recipient when the home is providing shelter to the applicant or recipient, or his or her spouse or dependent child. The division of family services shall establish by rule or regulation in conformance with applicable federal statutes and regulations a definition of the home and when the home shall be considered a resource that shall be considered in determining eligibility.

10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts as determined due pursuant to the applicable provisions of federal regulations pertaining to Title XVIII Medicare Part B, except for hospital outpatient services or the applicable Title XIX cost sharing.

11. A "community spouse" is defined as being the noninstitutionalized spouse.

12. An institutionalized spouse applying for Medicaid and having a spouse living in the community shall be required, to the maximum extent permitted by law, to divert income to such community spouse to raise the community spouse's income to the level of the minimum monthly needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall occur before the community spouse is allowed to retain assets in excess of the community spouse protected amount described in 42 U.S.C. Section 1396r-5.

208.198. SAME OR SIMILAR SERVICES, EQUAL REIMBURSEMENT RATE REQUIRED. — Subject to appropriations, the department of social services shall establish a rate for the reimbursement of physicians and optometrists for services rendered to patients under the MO HealthNet program which provides equal reimbursement for the same or similar services rendered.

208.215. PAYER OF LAST RESORT — LIABILITY FOR DEBT DUE THE STATE, CEILING — RIGHTS OF DEPARTMENT, WHEN, PROCEDURE, EXCEPTION — REPORT OF INJURIES REQUIRED, FORM, RECOVERY OF FUNDS — RECOVERY OF MEDICAL ASSISTANCE PAID, WHEN — COURT MAY ADJUDICATE RIGHTS OF PARTIES, WHEN. — 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made [in] on behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or disability or benefits arising from a health insurance program to which the participant may be entitled. Any health benefit plan as defined in section 376.1350, third party administrator, administrative service organization, and pharmacy benefits manager, shall process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:

(1) For a period of three years from the date services were provided or rendered; however, an entity:

(a) Shall not be required to reimburse for items or services which are not covered under MO HealthNet;

(b) Shall not deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to provide prior authorization;

(c) Shall not be required to reimburse for items or services for which a claim was previously submitted to the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager by the health care provider or the participant and the claim was properly denied by the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager for procedural reasons, except for timely filing, type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(d) Shall not be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim for subrogation has been filed; and

(e) Shall reimburse for items or services to the same extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it had been properly billed at the point of sale; and

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A [recipient] **participant** who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of

settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a [recipient] **participant** to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either

before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of the participant but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. **The computerized records of the MO HealthNet division, certified by the director or his or her designee, shall be prima facie evidence of proof of moneys expended and the amount of the debt due the state.**

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, [irrespective] **regardless** of whether [or not] an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from

entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the participant's entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The notice of lien shall contain the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be filed with the recorder. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled; or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

- (1) Actual and legal issues of liability as may exist between the [recipient] participant and the liable party;
- (2) Total funds available for settlement; and
- (3) An estimate of the cost to the division of pursuing its claim.

208.453. HOSPITALS TO PAY A FEDERAL REIMBURSEMENT ALLOWANCE FOR PRIVILEGE OF PROVIDING INPATIENT CARE, DEFINED — ELIMINATION OF ALLOWANCE FOR CERTAIN HOSPITALS. — Every hospital as defined by section 197.020, RSMo, except [public hospitals which are operated primarily for the care and treatment of mental disorders and] any hospital operated by the department of health and senior services, shall, in addition to all other fees and taxes now required or paid, pay a federal reimbursement allowance for the privilege of engaging in the business of providing inpatient health care in this state. For the purpose of this section, the phrase "engaging in the business of providing inpatient health care in this state" shall mean accepting payment for inpatient services rendered. The federal reimbursement allowance to be paid by a hospital which has an unsponsored care ratio that exceeds sixty-five percent or hospitals owned or operated by the board of curators, as defined in chapter 172, RSMo, may be eliminated by the director of the department of social services. The unsponsored care ratio shall be calculated by the department of social services.

208.895. REFERRAL FOR SERVICES, DEPARTMENT DUTIES — CONTRACTING FOR ASSESSMENTS, REQUIREMENTS—EXPIRATION DATE. — Upon receipt of a properly completed referral for MO HealthNet-funded home- and community-based care containing a nurse assessment or physician's order, the department of health and senior services [shall] **may**:

(1) Review the recommendations regarding services and process the referral within fifteen business days;

(2) Issue a prior-authorization for home and community-based services when information contained in the referral is sufficient to establish eligibility for MO HealthNet-funded long-term care and determine the level of service need as required under state and federal regulations;

(3) Arrange for the provision of services by an in-home provider;

(4) Reimburse the in-home provider for one nurse visit to conduct an assessment and recommendation for a care plan and, where necessary based on case circumstances, a second nurse visit may be authorized to gather additional information or documentation necessary to constitute a completed referral;

(5) Notify the referring entity upon the authorization of MO HealthNet eligibility and provide MO HealthNet reimbursement for personal care benefits effective the date of the assessment or physician's order, and MO HealthNet reimbursement for waiver services effective the date the state reviews and approves the care plan;

(6) Notify the referring entity within five business days of receiving the referral if additional information is required to process the referral; and

(7) Inform the provider and contact the individual when information is insufficient or the proposed care plan requires additional evaluation by state staff that is not obtained from the referring entity to schedule an in-home assessment to be conducted by the state staff within thirty days.

2. The department of health and senior services may contract for initial home and community based assessments, including a care plan, through an independent third-party assessor. The contract shall include a requirement that:

(1) Within fifteen days of receipt of a referral for service, the contractor shall have made a face-to-face assessment of care need and developed a plan of care; and

(2) The contractor notify the referring entity within five days of receipt of referral if additional information is needed to process the referral.

The contract shall also include the same requirements for such assessments as of January 1, 2010, related to timeliness of assessments and the beginning of service. The contract shall be bid under chapter 34 and shall not be a risk-based contract.

3. The two nurse visits authorized by subsection 16 of section 660.300 shall continue to be performed by home and community based providers for including, but not limited to, reassessment and level of care recommendations. These reassessments and care plan changes shall be reviewed and approved by the independent third party assessor. In the event of dispute over the level of care required, the third party assessor shall conduct a face to face review with the client in question.

4. The provisions of this section shall expire three years after the effective date of this section.

208.909. RESPONSIBILITIES OF RECIPIENTS AND VENDORS. — 1. Consumers receiving personal care assistance services shall be responsible for:

(1) Supervising their personal care attendant;

(2) Verifying wages to be paid to the personal care attendant;

(3) Preparing and submitting time sheets, signed by both the consumer and personal care attendant, to the vendor on a biweekly basis;

(4) Promptly notifying the department within ten days of any changes in circumstances affecting the personal care assistance services plan or in the consumer's place of residence; [and]

(5) Reporting any problems resulting from the quality of services rendered by the personal care attendant to the vendor. If the consumer is unable to resolve any problems resulting from the quality of service rendered by the personal care attendant with the vendor, the consumer shall report the situation to the department; **and**

(6) Providing the vendor with all necessary information to complete required paperwork for establishing the employer identification number.

2. Participating vendors shall be responsible for:

(1) Collecting time sheets **or reviewing reports of delivered services** and certifying [their] **the** accuracy **thereof**;

(2) The Medicaid reimbursement process, including the filing of claims and reporting data to the department as required by rule;

(3) Transmitting the individual payment directly to the personal care attendant on behalf of the consumer;

(4) Monitoring the performance of the personal care assistance services plan.

3. No state or federal financial assistance shall be authorized or expended to pay for services provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the services is to the household unit, or is a household task that the members of the consumer's household may reasonably be expected to share or do for one another when they live in the same household, unless such service is above and beyond typical activities household members may reasonably provide for another household member without a disability.

4. No state or federal financial assistance shall be authorized or expended to pay for personal care assistance services provided by a personal care attendant who is listed on any of the background check lists in the family care safety registry under sections 210.900 to 210.937, RSMo, unless a good cause waiver is first obtained from the department in accordance with section 660.317, RSMo.

5. (1) All vendors shall, by July 1, 2015, have, maintain, and use a telephone tracking system for the purpose of reporting and verifying the delivery of consumer-directed services as authorized by the department of health and senior services or its designee. Use of such a system prior to July 1, 2015, shall be voluntary. The telephone tracking system shall be used to process payroll for employees and for submitting claims for reimbursement to the MO HealthNet division. At a minimum, the telephone tracking system shall:

(a) Record the exact date services are delivered;

(b) Record the exact time the services begin and exact time the services end;

(c) Verify the telephone number from which the services are registered;

(d) Verify that the number from which the call is placed is a telephone number unique to the client;

(e) Require a personal identification number unique to each personal care attendant;

(f) Be capable of producing reports of services delivered, tasks performed, client identity, beginning and ending times of service and date of service in summary fashion that constitute adequate documentation of service; and

(g) Be capable of producing reimbursement requests for consumer approval that assures accuracy and compliance with program expectations for both the consumer and vendor.

(2) The department of health and senior services, in collaboration with other appropriate agencies, including centers for independent living, shall establish telephone tracking system pilot projects, implemented in two regions of the state, with one in an urban area and one in a rural area. Each pilot project shall meet the requirements of this section and section 208.918. The department of health and senior services shall, by December 31, 2013, submit a report to the governor and general assembly detailing the outcomes of these pilot projects. The report shall take into consideration the impact of a

telephone tracking system on the quality of the services delivered to the consumer and the principles of self-directed care.

(3) As new technology becomes available, the department may allow use of a more advanced tracking system, provided that such system is at least as capable of meeting the requirements of this subsection.

(4) The department of health and senior services shall promulgate by rule the minimum necessary criteria of the telephone tracking system. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

6. In the event that a consensus between centers for independent living and representatives from the executive branch cannot be reached, the telephony report issued to the general assembly and governor shall include a minority report which shall detail those elements of substantial dissent from the main report.

7. No interested party, including a center for independent living, shall be required to contract with any particular vendor or provider of telephony services nor bear the full cost of the pilot program.

208.918. VENDOR REQUIREMENTS, PHILOSOPHY AND SERVICES. — 1. In order to qualify for an agreement with the department, the vendor shall have a philosophy that promotes the consumer's ability to live independently in the most integrated setting or the maximum community inclusion of persons with physical disabilities, and shall demonstrate the ability to provide, directly or through contract, the following services:

- (1) Orientation of consumers concerning the responsibilities of being an employer, supervision of personal care attendants including the preparation and verification of time sheets;
- (2) Training for consumers about the recruitment and training of personal care attendants;
- (3) Maintenance of a list of persons eligible to be a personal care attendant;
- (4) Processing of inquiries and problems received from consumers and personal care attendants;
- (5) Ensuring the personal care attendants are registered with the family care safety registry as provided in sections 210.900 to 210.937, RSMo; and
- (6) The capacity to provide fiscal conduit services **through a telephone tracking system by the date required under section 208.909.**

2. In order to maintain its agreement with the department, a vendor shall comply with the provisions of subsection 1 of this section and shall:

- (1) Demonstrate sound fiscal management as evidenced on accurate quarterly financial reports and annual audit submitted to the department; and
- (2) Demonstrate a positive impact on consumer outcomes regarding the provision of personal care assistance services as evidenced on accurate quarterly and annual service reports submitted to the department;
- (3) Implement a quality assurance and supervision process that ensures program compliance and accuracy of records; and
- (4) Comply with all provisions of sections 208.900 to 208.927, and the regulations promulgated thereunder.

660.023. IN-HOME SERVICES PROVIDERS, TELEPHONE TRACKING SYSTEM REQUIRED, USE OF — RULEMAKING AUTHORITY. — 1. All in-home services provider agencies shall, by July 1, 2015, have, maintain, and use a telephone tracking system for the purpose of

reporting and verifying the delivery of home and community based services as authorized by the department of health and senior services or its designee. Use of such system prior to July 1, 2015, shall be voluntary. At a minimum, the telephone tracking system shall:

- (1) Record the exact date services are delivered;
- (2) Record the exact time the services begin and exact time the services end;
- (3) Verify the telephone number from which the services were registered;
- (4) Verify that the number from which the call is placed is a telephone number unique to the client;
- (5) Require a personal identification number unique to each personal care attendant; and
- (6) Be capable of producing reports of services delivered, tasks performed, client identity, beginning and ending times of service and date of service in summary fashion that constitute adequate documentation of service.

2. The telephone tracking system shall be used to process payroll for employees and for submitting claims for reimbursement to the MO HealthNet division.

3. The department of health and senior services shall promulgate by rule the minimum necessary criteria of the telephone tracking system. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

4. As new technology becomes available, the department may allow use of a more advance tracking system, provided that such system is at least as capable of meeting the requirements listed in subsection 1 of this section.

5. The department of health and senior services, in collaboration with other appropriate agencies, including in-home services providers, shall establish telephone tracking system pilot projects, implemented in two regions of the state, with one in an urban area and one in a rural area. Each pilot project shall meet the requirements of this section. The department of health and senior services shall, by December 31, 2013, submit a report to the governor and general assembly detailing the outcomes of these pilot projects. The report shall take into consideration the impact of a telephone tracking system on the quality of the services delivered to the consumer and the principles of self-directed care.

6. In the event that a consensus between in-home service providers and representatives from the executive branch cannot be reached, the telephony report issued to the general assembly and governor shall include a minority report which will detail those elements of substantial dissent from the main report.

7. No interested party, including in-home service providers, shall be required to contract with any particular vendor or provider of telephony services nor bear the full cost of the pilot program.

660.300. REPORT OF ABUSE OR NEGLECT OF IN-HOME SERVICES OR HOME HEALTH AGENCY CLIENT, DUTY — PENALTY — CONTENTS OF REPORT — INVESTIGATION, PROCEDURE — CONFIDENTIALITY OF REPORT — IMMUNITY — RETALIATION PROHIBITED, PENALTY — EMPLOYEE DISQUALIFICATION LIST — SAFE AT HOME EVALUATIONS, PROCEDURE. — 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency

employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.

2. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

4. Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

5. The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

6. In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client or home health patient has been abused or neglected by an in-home services employee or home health agency employee may report such information to the department.

7. If the investigation indicates possible abuse or neglect of an in-home services client or home health patient, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the in-home services client or home health patient from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client or home health patient in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the in-home services client or home health patient, for a period not to exceed thirty days.

8. Reports shall be confidential, as provided under section 660.320.

9. Anyone, except any person who has abused or neglected an in-home services client or home health patient, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

10. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

11. No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee

because he or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he has reasonable cause to believe has been committed or has occurred.

12. Any person who abuses or neglects an in-home services client or home health patient is subject to criminal prosecution under section 565.180, 565.182, or 565.184, RSMo. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an administrative review of the department's action pursuant to chapter 621, RSMo. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.

13. The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

14. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section 660.315, to have recklessly, knowingly or purposely abused or neglected an in-home services client or home health patient while employed by an in-home services provider agency or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

15. At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536, RSMo. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to establish the plan of service or care. The department may, as indicated by the safe at home evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

16. Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and

treatment in an intermediate care facility, provided that the services have been preauthorized by the department.

17. All in-home services clients shall be advised of their rights by the department **or the department's designee** at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. **The department may contract for services relating to receiving such complaints.** The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

18. Subject to appropriations, all nurse visits authorized in sections 660.250 to 660.300 shall be reimbursed to the in-home services provider agency.

660.425. HOME SERVICES PROVIDERS TAX IMPOSED, DEFINITIONS. — 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon in-home services providers for the privilege of providing in-home services [under chapter 208, RSMo]. The tax is imposed upon payments received by an in-home services provider for the provision of in-home services [under chapter 208, RSMo].

2. For purposes of sections 660.425 to 660.465, the following terms shall mean:

(1) "Engaging in the business of providing in-home services", all payments received by an in-home services provider for the provision of in-home services [under chapter 208, RSMo];

(2) "In-home services", homemaker services, personal care services, chore services, respite services, consumer-directed services, and services, when provided in the individual's home and under a plan of care created by a physician, necessary to keep children out of hospitals. "In-home services" shall not include home health services as defined by federal and state law;

(3) "In-home services provider", any provider or vendor, as defined in section 208.900, RSMo, of compensated in-home services [under chapter 208, RSMo], and under a provider agreement or contracted with the department of social services or the department of health and senior services.

660.430. AMOUNT OF TAX, FORMULA — RULEMAKING AUTHORITY — APPEALS. — 1. Each in-home services provider in this state providing in-home services [under chapter 208, RSMo.] shall, in addition to all other fees and taxes now required or paid, pay an in-home services gross receipts tax, not to exceed six and one-half percent of gross receipts, for the privilege of engaging in the business of providing in-home services in this state.

2. Each in-home services provider's tax shall be based on a formula set forth in rules promulgated by the department of social services. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

3. The director of the department of social services or the director's designee may prescribe the form and contents of any forms or other documents required by sections 660.425 to 660.465.

4. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules under this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

660.435. LIST OF VENDORS TO BE PROVIDED — RECORD-KEEPING REQUIREMENTS — REPORT OF TOTAL PAYMENTS. — 1. For purposes of assessing the tax under sections 660.425 to 660.465, the department of health and senior services shall make available to the department of social services a list of all providers and vendors under this section.

2. Each in-home services provider subject to sections 660.425 to 660.465 shall keep such records as may be necessary to determine the total payments received for the provision of in-home services [under chapter 208, RSMo.] by the in-home services provider. Every in-home services provider shall submit to the department of social services a statement that accurately reflects such information as is necessary to determine such in-home services provider's tax due.

3. The director of the department of social services may prescribe the form and contents of any forms or other documents required by this section.

4. Each in-home services provider shall report the total payments received for the provision of in-home services [under chapter 208, RSMo.] to the department of social services.

660.445. DETERMINATION OF TAX AMOUNT — NOTIFICATION TO PROVIDER — QUARTERLY TAX ADJUSTMENTS PERMITTED. — 1. The determination of the amount of tax due shall be the total amount of payments reported to the department multiplied by the tax rate established by rule by the department of social services.

2. The department of social services shall notify each in-home services provider of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

3. The department of social services may adjust the tax due quarterly on a prospective basis. The department of social services may adjust the tax due more frequently for individual providers if there is a substantial and statistically significant change in the in-home services provided or in the payments received for such services provided [under chapter 208, RSMo]. The department of social services may define such adjustment criteria by rule.

660.455. REMITTANCE OF TAX — FUND CREATED — RECORD-KEEPING REQUIREMENTS. — 1. The in-home services tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the in-home services provider to the department of social services. The remittance shall be made payable to the director of the department of social services and shall be deposited in the state treasury to the credit of the "In-home Services Gross Receipts Tax Fund" which is hereby created to provide payments for in-home services provided [under chapter 208, RSMo]. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 660.450 or a payment to the in-home services gross receipts tax fund shall be accepted as payment of the obligation set forth in section 660.425.

3. The state treasurer shall maintain records showing the amount of money in the in-home services gross receipts tax fund at any time and the amount of investment earnings on such amount. 4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the in-home services gross receipts tax fund at the end of the biennium shall not revert to the credit of the general revenue fund.

660.460. NOTIFICATION OF TAXES DUE — UNPAID OR DELINQUENT AMOUNTS, EFFECT OF — FAILURE TO PAY, PENALTY. — 1. The department of social services shall notify each in-home services provider with a tax due of more than ninety days of the amount of such balance. If any in-home services provider fails to pay its in-home services tax within thirty days of such notice, the in-home services tax shall be delinquent.

2. If any tax imposed under sections 660.425 to 660.465 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the in-home services provider and compel the payment of such assessment in the circuit court having jurisdiction in the county where the in-home services provider is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any in-home services provider that fails to pay the tax imposed by section 660.425.

3. Failure to pay the tax imposed under section 660.425 shall be grounds for failure to renew a provider agreement for services [under chapter 208, RSMo,] or failure to renew a provider contract. The department of social services may revoke the provider agreement of any in-home services provider that fails to pay such tax, or notify the department of health and senior services to revoke the provider contract.

660.465. EXPIRATION DATE. — 1. The in-home services tax required by sections 660.425 to 660.465 shall expire:

- (1) Ninety days after any one or more of the following conditions are met:
 - (a) The aggregate in-home services fee as appropriated by the general assembly paid to in-home services providers for in-home services provided [under chapter 208, RSMo,] is less than the fiscal year 2010 in-home services fees reimbursement amount; or
 - (b) The formula used to calculate the reimbursement as appropriated by the general assembly for in-home services provided is changed resulting in lower reimbursement to in-home services providers in the aggregate than provided in fiscal year 2010; or

(2) September 1, [2011] **2012**.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection.

2. Sections 660.425 to 660.465 shall expire on September 1, [2011] **2012**.

Approved June 25, 2010

SB 844 [CCS#3 HCS#2 SB 844]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows statewide officials to request the office of administration to determine the lowest and best bidders for their purchasing, printing, and service contracts

AN ACT to repeal sections 105.456, 105.473, 105.485, 105.955, 105.957, 105.959, 105.961, 105.963, 105.966, 130.011, 130.021, 130.026, 130.028, 130.031, 130.041, 130.044, 130.046, 130.057, 130.071, and 226.033, RSMo, and to enact in lieu thereof twenty-six new sections relating to ethics, with penalty provisions.

SECTION

- A. Enacting clause.
- 8.016. State capitol dome key, members of general assembly to be provided with — training required.
- 34.048. General Services Administration vendors, purchase of supplies authorized.
- 37.900. Statewide elected officials may request determination of lowest and best bidder, procedure.
- 105.456. Prohibited acts by members of general assembly and statewide elected officials, exceptions.
- 105.463. Appointment to board or commission, financial interest statement required.
- 105.473. Duties of lobbyist — report required, contents — exception — penalties — supersession of local ordinances or charters.
- 105.485. Financial interest statements — form — contents — political subdivisions, compliance.
- 105.955. Ethics commission established — appointment — qualifications — terms — vacancies — removal — s required — investigators — powers and duties of commission — advisory opinions, effect — audits.
- 105.957. Receipt of complaints — form — investigation — dismissal of frivolous complaints, damages, public report.
- 105.959. Review of reports and statements, notice — investigations — report — referral of report — confidentiality.
- 105.961. Special investigator — report — commission review, determination — special prosecutor — hearings — action of commission — formal proceedings — appropriate disciplinary authorities — powers of investigators — fees and expenses — confidentiality, penalty — compensation.

- 105.963. Assessments of committees, campaign disclosure reports — notice — penalty — assessments of financial interest statements — notice — penalties — effective date.
- 105.966. Ethics commission to complete all complaint investigations, procedure.
- 115.364. Previously disqualified candidate not eligible for selection by party nominating committee.
- 130.011. Definitions.
- 130.021. Treasurer for candidates and committees, when required — duties — official depository account to be established — statement of organization for committees, contents, when filed — termination of committee, procedure.
- 130.026. Election authority defined — appropriate officer designated for filing of reports.
- 130.028. Prohibitions against certain discrimination or intimidation relating to elections — contributions by employees, payroll deduction, when.
- 130.031. Restrictions and limitations on contributions — records required — anonymous contributions, how handled — campaign materials, sponsor to be identified — prizes prohibited.
- 130.041. Disclosure reports — who files — when required — contents.
- 130.044. Certain contributions to be reported within forty-eight hours of receipt — electronic reporting, when — rulemaking authority.
- 130.046. Times for filing of disclosure — periods covered by reports — certain disclosure reports not required — supplemental reports, when — certain disclosure reports filed electronically — rulemaking authority.
- 130.057. Campaign finance electronic reporting system, establishment, use of — certain candidates and committees to file in electronic format, when, fees to convert paper copy — purchase of electronic system, requirements — public access.
- 130.071. Candidate not to take office or file for subsequent elections until disclosure reports are filed.
- 226.033. Prohibited acts by certain commissioners.
- 575.021. Obstruction of an ethics investigation, defenses, penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 105.456, 105.473, 105.485, 105.955, 105.957, 105.959, 105.961, 105.963, 105.966, 130.011, 130.021, 130.026, 130.028, 130.031, 130.041, 130.044, 130.046, 130.057, 130.071, and 226.033, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 8.016, 34.048, 37.900, 105.456, 105.463, 105.473, 105.485, 105.955, 105.957, 105.959, 105.961, 105.963, 105.966, 115.364, 130.011, 130.021, 130.026, 130.028, 130.031, 130.041, 130.044, 130.046, 130.057, 130.071, 226.033, and 575.021, to read as follows:

8.016. STATE CAPITOL DOME KEY, MEMBERS OF GENERAL ASSEMBLY TO BE PROVIDED WITH—TRAINING REQUIRED. — **1.** The commissioner of the office of administration shall provide each member of the senate and each member of the house of representatives with a key that accesses the dome of the state capitol.

2. The president pro tem of the senate and the speaker of the house of representatives shall be responsible for providing a training program for the members and staff of the general assembly regarding access to secured areas of the capitol building. They may consult with the office of administration and department of public safety when developing such program.

34.048. GENERAL SERVICES ADMINISTRATION VENDORS, PURCHASE OF SUPPLIES AUTHORIZED. — In any contract for purchasing supplies as defined in section 34.010 not exceeding the threshold for competitive bids set forth under section 34.040, the office of administration shall not prevent any department, office, board, commission, bureau, institution, political subdivision, or any other agency of the state from purchasing supplies from an authorized General Services Administration vendor including "GSA Advantage", "GSA e-Buy", or successor sources.

37.900. STATEWIDE ELECTED OFFICIALS MAY REQUEST DETERMINATION OF LOWEST AND BEST BIDDER, PROCEDURE. — **1.** Any statewide elected official may request the office of administration to determine the lowest and best bidder with respect to any contract for purchasing, printing, or services for which the official has the authority to contract.

2. The official shall submit the original request for proposal and any pertinent information explaining the evaluation criteria established in the request and any additional information the official deems necessary.

3. The office of administration shall not be required to inquire of or negotiate with any offeror submitting a bid and shall only be required to reply to the elected official within forty-five days after the submission of the request by naming the offeror the office of administration determines to be the lowest and best bidder based on all submitted documents.

105.456. PROHIBITED ACTS BY MEMBERS OF GENERAL ASSEMBLY AND STATEWIDE ELECTED OFFICIALS, EXCEPTIONS. — 1. No member of the general assembly or the governor, lieutenant governor, attorney general, secretary of state, state treasurer or state auditor shall:

(1) Perform any service for the state or any political subdivision of the state or any agency of the state or any political subdivision thereof or act in his or her official capacity or perform duties associated with his or her position for any person for any consideration other than the compensation provided for the performance of his or her official duties; or

(2) Sell, rent or lease any property to the state or political subdivision thereof or any agency of the state or any political subdivision thereof for consideration in excess of five hundred dollars per transaction or one thousand five hundred dollars per annum unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received; or

(3) Attempt, for compensation other than the compensation provided for the performance of his or her official duties, to influence the decision of any agency of the state on any matter, except that this provision shall not be construed to prohibit such person from participating for compensation in any adversary proceeding or in the preparation or filing of any public document or conference thereon. The exception for a conference upon a public document shall not permit any member of the general assembly or the governor, lieutenant governor, attorney general, secretary of state, state treasurer or state auditor to receive any consideration for the purpose of attempting to influence the decision of any agency of the state on behalf of any person with regard to any application, bid or request for a state grant, loan, appropriation, contract, award, permit other than matters involving a driver's license, or job before any state agency, commission, or elected official. Notwithstanding Missouri supreme court rule 1.10 of rule 4 or any other court rule or law to the contrary, other members of a firm, professional corporation or partnership shall not be prohibited pursuant to this subdivision from representing a person or other entity solely because a member of the firm, professional corporation or partnership serves in the general assembly, provided that such official does not share directly in the compensation earned, so far as the same may reasonably be accounted, for such activity by the firm or by any other member of the firm. This subdivision shall not be construed to prohibit any inquiry for information or the representation of a person without consideration before a state agency or in a matter involving the state if no consideration is given, charged or promised in consequence thereof.

2. No sole proprietorship, partnership, joint venture, or corporation in which a member of the general assembly, governor, lieutenant governor, attorney general, secretary of state, state treasurer, state auditor or spouse of such official, is the sole proprietor, a partner having more than a ten percent partnership interest, or a coparticipant or owner of in excess of ten percent of the outstanding shares of any class of stock, shall:

(1) Perform any service for the state or any political subdivision thereof or any agency of the state or political subdivision for any consideration in excess of five hundred dollars per transaction or one thousand five hundred dollars per annum unless the transaction is made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received; or

(2) Sell, rent, or lease any property to the state or any political subdivision thereof or any agency of the state or political subdivision thereof for consideration in excess of five hundred dollars per transaction or one thousand five hundred dollars per annum unless the transaction is made pursuant to an award on a contract let or a sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest and best received.

3. No statewide elected official, member of the general assembly, or any person acting on behalf of such official or member shall expressly and explicitly make any offer or promise to confer any paid employment, where the individual is compensated above actual and necessary expenses, to any statewide elected official or member of the general assembly in exchange for the official's or member's official vote on any public matter. Any person making such offer or promise is guilty of the crime of bribery of a public servant under section 576.010.

4. Any statewide elected official or member of the general assembly who accepts or agrees to accept an offer described in subsection 3 of this section is guilty of the crime of acceding to corruption under section 576.020.

105.463. APPOINTMENT TO BOARD OR COMMISSION, FINANCIAL INTEREST STATEMENT REQUIRED. — Within thirty days of submission of the person's name to the governor and in order to be an eligible nominee for appointment to a board or commission requiring senate confirmation, a nominee shall file a financial interest statement in the manner provided by section 105.485 and shall request a list of all political contributions and the name of the candidate or committee as defined in chapter 130, to which those contributions were made within the four-year period prior to such appointment, made by the nominee, from the ethics commission. The information shall be delivered to the nominee by the ethics commission. The nominee shall deliver the information to the president pro tem of the senate prior to confirmation.

105.473. DUTIES OF LOBBYIST — REPORT REQUIRED, CONTENTS — EXCEPTION — PENALTIES — SUPERSESSION OF LOCAL ORDINANCES OR CHARTERS. — 1. Each lobbyist shall, not later than January fifth of each year or five days after beginning any activities as a lobbyist, file standardized registration forms, verified by a written declaration that it is made under the penalties of perjury, along with a filing fee of ten dollars, with the commission. The forms shall include the lobbyist's name and business address, the name and address of all persons such lobbyist employs for lobbying purposes, the name and address of each lobbyist principal by whom such lobbyist is employed or in whose interest such lobbyist appears or works. The commission shall maintain files on all lobbyists' filings, which shall be open to the public. Each lobbyist shall file an updating statement under oath within one week of any addition, deletion, or change in the lobbyist's employment or representation. The filing fee shall be deposited to the general revenue fund of the state. The lobbyist principal or a lobbyist employing another person for lobbying purposes may notify the commission that a judicial, executive or legislative lobbyist is no longer authorized to lobby for the principal or the lobbyist and should be removed from the commission's files.

2. Each person shall, before giving testimony before any committee of the general assembly, give to the secretary of such committee such person's name and address and the identity of any lobbyist or organization, if any, on whose behalf such person appears. A person who is not a lobbyist as defined in section 105.470 shall not be required to give such person's address if the committee determines that the giving of such address would endanger the person's physical health.

3. (1) During any period of time in which a lobbyist continues to act as an executive lobbyist, judicial lobbyist, legislative lobbyist, or elected local government official lobbyist, the lobbyist shall file with the commission on standardized forms prescribed by the commission

monthly reports which shall be due at the close of business on the tenth day of the following month;

(2) Each report filed pursuant to this subsection shall include a statement, verified by a written declaration that it is made under the penalties of perjury, setting forth the following:

(a) The total of all expenditures by the lobbyist or his or her lobbyist principals made on behalf of all public officials, their staffs and employees, and their spouses and dependent children, which expenditures shall be separated into at least the following categories by the executive branch, judicial branch and legislative branch of government: printing and publication expenses; media and other advertising expenses; travel; the time, venue, and nature of any entertainment; honoraria; meals, food and beverages; and gifts;

(b) The total of all expenditures by the lobbyist or his or her lobbyist principals made on behalf of all elected local government officials, their staffs and employees, and their spouses and children. Such expenditures shall be separated into at least the following categories: printing and publication expenses; media and other advertising expenses; travel; the time, venue, and nature of any entertainment; honoraria; meals; food and beverages; and gifts;

(c) An itemized listing of the name of the recipient and the nature and amount of each expenditure by the lobbyist or his or her lobbyist principal, including a service or anything of value, for all expenditures made during any reporting period, paid or provided to or for a public official or elected local government official, such official's staff, employees, spouse or dependent children;

(d) The total of all expenditures made by a lobbyist or lobbyist principal for occasions and the identity of the group invited, the date, **location**, and description of the occasion and the amount of the expenditure for each occasion when any of the following are invited in writing:

a. All members of the senate, **which may or may not include senate staff and employees under the direct supervision of a state senator;**

b. All members of the house of representatives, **which may or may not include house staff and employees under the direct supervision of a state representative;**

c. All members of a joint committee of the general assembly or a standing committee of either the house of representatives or senate, **which may or may not include joint and standing committee staff; [or]**

d. All members of a caucus of the majority party of the house of representatives, minority party of the house of representatives, majority party of the senate, or minority party of the senate;

e. **All statewide officials, which may or may not include the staff and employees under the direct supervision of the statewide official;**

(e) Any expenditure made on behalf of a public official, an elected local government official or such official's staff, employees, spouse or dependent children, if such expenditure is solicited by such official, the official's staff, employees, or spouse or dependent children, from the lobbyist or his or her lobbyist principals and the name of such person or persons, except any expenditures made to any not-for-profit corporation, charitable, fraternal or civic organization or other association formed to provide for good in the order of benevolence **and except for any expenditure reported under paragraph (d) of this subdivision;**

(f) A statement detailing any direct business relationship or association or partnership the lobbyist has with any public official or elected local government official. The reports required by this subdivision shall cover the time periods since the filing of the last report or since the lobbyist's employment or representation began, whichever is most recent.

4. No expenditure reported pursuant to this section shall include any amount expended by a lobbyist or lobbyist principal on himself or herself. All expenditures disclosed pursuant to this section shall be valued on the report at the actual amount of the payment made, or the charge, expense, cost, or obligation, debt or bill incurred by the lobbyist or the person the lobbyist represents. Whenever a lobbyist principal employs more than one lobbyist, expenditures of the lobbyist principal shall not be reported by each lobbyist, but shall be reported by one of such lobbyists. No expenditure shall be made on behalf of a state senator or state representative, or

such public official's staff, employees, spouse, or dependent children for travel or lodging outside the state of Missouri unless such travel or lodging was approved prior to the date of the expenditure by the administration and accounts committee of the house or the administration committee of the senate.

5. Any lobbyist principal shall provide in a timely fashion whatever information is reasonably requested by the lobbyist principal's lobbyist for use in filing the reports required by this section.

6. All information required to be filed pursuant to the provisions of this section with the commission shall be kept available by the executive director of the commission at all times open to the public for inspection and copying for a reasonable fee for a period of five years from the date when such information was filed.

7. No person shall knowingly employ any person who is required to register as a registered lobbyist but is not registered pursuant to this section. Any person who knowingly violates this subsection shall be subject to a civil penalty in an amount of not more than ten thousand dollars for each violation. Such civil penalties shall be collected by action filed by the commission.

8. ~~[No]~~ Any lobbyist ~~[shall]~~ **found to** knowingly omit, conceal, or falsify in any manner information required pursuant to this section **shall be guilty of a class A misdemeanor.**

9. The prosecuting attorney of Cole County shall be reimbursed only out of funds specifically appropriated by the general assembly for investigations and prosecutions for violations of this section.

10. Any public official or other person whose name appears in any lobbyist report filed pursuant to this section who contests the accuracy of the portion of the report applicable to such person may petition the commission for an audit of such report and shall state in writing in such petition the specific disagreement with the contents of such report. The commission shall investigate such allegations in the manner described in section 105.959. If the commission determines that the contents of such report are incorrect, incomplete or erroneous, it shall enter an order requiring filing of an amended or corrected report.

11. The commission shall provide a report listing the total spent by a lobbyist for the month and year to any member or member-elect of the general assembly, judge or judicial officer, or any other person holding an elective office of state government or any elected local government official on or before the twentieth day of each month. For the purpose of providing accurate information to the public, the commission shall not publish information in either written or electronic form for ten working days after providing the report pursuant to this subsection. The commission shall not release any portion of the lobbyist report if the accuracy of the report has been questioned pursuant to subsection 10 of this section unless it is conspicuously marked "Under Review".

12. Each lobbyist or lobbyist principal by whom the lobbyist was employed, or in whose behalf the lobbyist acted, shall provide a general description of the proposed legislation or action by the executive branch or judicial branch which the lobbyist or lobbyist principal supported or opposed. This information shall be supplied to the commission on March fifteenth and May thirtieth of each year.

13. The provisions of this section shall supersede any contradicting ordinances or charter provisions.

105.485. FINANCIAL INTEREST STATEMENTS — FORM — CONTENTS — POLITICAL SUBDIVISIONS, COMPLIANCE. — 1. Each financial interest statement required by sections 105.483 to 105.492 shall be on a form prescribed by the commission and shall be signed and verified by a written declaration that it is made under penalties of perjury; provided, however, the form shall not seek information which is not specifically required by sections 105.483 to 105.492.

2. Each person required to file a financial interest statement pursuant to subdivisions (1) to (12) of section 105.483 shall file the following information for himself, his spouse and dependent

children at any time during the period covered by the statement, whether singularly or collectively; provided, however, that said person, if he does not know and his spouse will not divulge any information required to be reported by this section concerning the financial interest of his spouse, shall state on his financial interest statement that he has disclosed that information known to him and that his spouse has refused or failed to provide other information upon his bona fide request, and such statement shall be deemed to satisfy the requirements of this section for such financial interest of his spouse; and provided further if the spouse of any person required to file a financial interest statement is also required by section 105.483 to file a financial interest statement, the financial interest statement filed by each need not disclose the financial interest of the other, provided that each financial interest statement shall state that the spouse of the person has filed a separate financial interest statement and the name under which the statement was filed:

(1) The name and address of each of the employers of such person from whom income of one thousand dollars or more was received during the year covered by the statement;

(2) The name and address of each sole proprietorship which he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or coparticipant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the secretary of state; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent or more of any class of the outstanding stock or limited partners' units; and the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system in which the person owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests;

(3) The name and address of any other source not reported pursuant to subdivisions (1) and (2) and subdivisions (4) to (9) of this subsection from which such person received one thousand dollars or more of income during the year covered by the statement, including, but not limited to, any income otherwise required to be reported on any tax return such person is required by law to file; except that only the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system need be reported pursuant to this subdivision;

(4) The location by county, the subclassification for property tax assessment purposes, the approximate size and a description of the major improvements and use for each parcel of real property in the state, other than the individual's personal residence, having a fair market value of ten thousand dollars or more in which such person held a vested interest including a leasehold for a term of ten years or longer, and, if the property was transferred during the year covered by the statement, the name and address of the persons furnishing or receiving consideration for such transfer;

(5) The name and address of each entity in which such person owned stock, bonds or other equity interest with a value in excess of ten thousand dollars; except that, if the entity is a corporation listed on a regulated stock exchange, only the name of the corporation need be listed; and provided that any member of any board or commission of the state or any political subdivision who does not receive any compensation for his services to the state or political subdivision other than reimbursement for his actual expenses or a per diem allowance as prescribed by law for each day of such service need not report interests in publicly traded corporations or limited partnerships which are listed on a regulated stock exchange or automated quotation system pursuant to this subdivision; and provided further that the provisions of this subdivision shall not require reporting of any interest in any qualified plan or annuity pursuant to the Employees' Retirement Income Security Act;

(6) The name and address of each corporation for which such person served in the capacity of a director, officer or receiver;

(7) The name and address of each not-for-profit corporation and each association, organization, or union, whether incorporated or not, except not-for-profit corporations formed to provide church services, fraternal organizations or service clubs from which the officer or employee draws no remuneration, in which such person was an officer, director, employee or trustee at any time during the year covered by the statement, and for each such organization, a general description of the nature and purpose of the organization;

(8) The name and address of each source from which such person received a gift or gifts, or honorarium or honoraria in excess of two hundred dollars in value per source during the year covered by the statement other than gifts from persons within the third degree of consanguinity or affinity of the person filing the financial interest statement. For the purposes of this section, a "gift" shall not be construed to mean political contributions otherwise required to be reported by law or hospitality such as food, beverages or admissions to social, art, or sporting events or the like, or informational material. For the purposes of this section, a "gift" shall include gifts to or by creditors of the individual for the purpose of canceling, reducing or otherwise forgiving the indebtedness of the individual to that creditor;

(9) The lodging and travel expenses provided by any third person for expenses incurred outside the state of Missouri whether by gift or in relation to the duties of office of such official, except that such statement shall not include travel or lodging expenses:

(a) Paid in the ordinary course of business for businesses described in subdivisions (1), (2), (5) and (6) of this subsection which are related to the duties of office of such official; or

(b) For which the official may be reimbursed as provided by law; or

(c) Paid by persons related by the third degree of consanguinity or affinity to the person filing the statement; or

(d) Expenses which are reported by the campaign committee or candidate committee of the person filing the statement pursuant to the provisions of chapter 130, RSMo; or

(e) Paid for purely personal purposes which are not related to the person's official duties by a third person who is not a lobbyist, a lobbyist principal or member, or officer or director of a member, of any association or entity which employs a lobbyist. The statement shall include the name and address of such person who paid the expenses, the date such expenses were incurred, the amount incurred, the location of the travel and lodging, and the nature of the services rendered or reason for the expenses;

(10) The assets in any revocable trust of which the individual is the settlor if such assets would otherwise be required to be reported under this section;

(11) The name, position and relationship of any relative within the first degree of consanguinity or affinity to any other person who:

(a) Is employed by the state of Missouri, by a political subdivision of the state or special district, as defined in section 115.013, RSMo, of the state of Missouri;

(b) Is a lobbyist; or

(c) Is a fee agent of the department of revenue;

(12) The name and address of each campaign committee, political **party** committee, candidate committee, or [continuing] **political action** committee for which such person or any corporation listed on such person's financial interest statement received payment; and

(13) For members of the general assembly or any statewide elected public official, their spouses, and their dependent children, whether any state tax credits were claimed on the member's, spouse's, or dependent child's most recent state income tax return.

3. For the purposes of subdivisions (1), (2) and (3) of subsection 2 of this section, an individual shall be deemed to have received a salary from his employer or income from any source at the time when he shall receive a negotiable instrument whether or not payable at a later date and at the time when under the practice of his employer or the terms of an agreement he has earned or is entitled to anything of actual value whether or not delivery of the value is deferred or right to it has vested. The term income as used in this section shall have the same meaning as provided in the Internal Revenue Code of 1986, and amendments thereto, as the same may

be or becomes effective, at any time or from time to time for the taxable year, provided that income shall not be considered received or earned for purposes of this section from a partnership or sole proprietorship until such income is converted from business to personal use.

4. Each official, officer or employee or candidate of any political subdivision described in subdivision (11) of section 105.483 shall be required to file a financial interest statement as required by subsection 2 of this section, unless the political subdivision biennially adopts an ordinance, order or resolution at an open meeting by September fifteenth of the preceding year, which establishes and makes public its own method of disclosing potential conflicts of interest and substantial interests and therefore excludes the political subdivision or district and its officers and employees from the requirements of subsection 2 of this section. A certified copy of the ordinance, order or resolution shall be sent to the commission within ten days of its adoption. The commission shall assist any political subdivision in developing forms to complete the requirements of this subsection. The ordinance, order or resolution shall contain, at a minimum, the following requirements with respect to disclosure of substantial interests:

(1) Disclosure in writing of the following described transactions, if any such transactions were engaged in during the calendar year:

(a) For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars, if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision;

(b) The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars, if any, that any business entity in which such person had a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision;

(2) The chief administrative officer and chief purchasing officer of such political subdivision shall disclose in writing the information described in subdivisions (1), (2) and (6) of subsection 2 of this section;

(3) Disclosure of such other financial interests applicable to officials, officers and employees of the political subdivision, as may be required by the ordinance or resolution;

(4) Duplicate disclosure reports made pursuant to this subsection shall be filed with the commission and the governing body of the political subdivision. The clerk of such governing body shall maintain such disclosure reports available for public inspection and copying during normal business hours.

105.955. ETHICS COMMISSION ESTABLISHED — APPOINTMENT — QUALIFICATIONS — TERMS — VACANCIES — REMOVAL — S REQUIRED — INVESTIGATORS — POWERS AND DUTIES OF COMMISSION — ADVISORY OPINIONS, EFFECT — AUDITS. — 1. A bipartisan "Missouri Ethics Commission", composed of six members, is hereby established. The commission shall be assigned to the office of administration with supervision by the office of administration only for budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974. Supervision by the office of administration shall not extend to matters relating to policies, regulative functions or appeals from decisions of the commission, and the commissioner of administration, any employee of the office of administration, or the governor, either directly or indirectly, shall not participate or interfere with the activities of the commission in any manner not specifically provided by law and shall not in any manner interfere with the budget request of or withhold any moneys appropriated to the commission by the general assembly. All members of the commission shall be appointed by the governor with the advice and consent of the senate from lists submitted pursuant to this section. Each congressional district committee of the political parties having the two highest

number of votes cast for their candidate for governor at the last gubernatorial election shall submit two names of eligible nominees for membership on the commission to the governor, and the governor shall select six members from such nominees to serve on the commission.

2. Within thirty days of submission of the person's name to the governor as provided in subsection 1 of this section, and in order to be an eligible nominee for appointment to the commission, a person shall file a financial interest statement in the manner provided by section 105.485 and shall provide the governor, the president pro tempore of the senate, and the commission with a list of all political contributions and the name of the candidate or committee, political party, or [continuing] **political action** committee, as defined in chapter 130, RSMo, to which those contributions were made within the four-year period prior to such appointment, made by the nominee, the nominee's spouse, or any business entity in which the nominee has a substantial interest. The information shall be maintained by the commission and available for public inspection during the period of time during which the appointee is a member of the commission. In order to be an eligible nominee for membership on the commission, a person shall be a citizen and a resident of the state and shall have been a registered voter in the state for a period of at least five years preceding the person's appointment.

3. The term of each member shall be for four years, except that of the members first appointed, the governor shall select three members from even-numbered congressional districts and three members from odd-numbered districts. Not more than three members of the commission shall be members of the same political party, nor shall more than one member be from any one United States congressional district. Not more than two members appointed from the even-numbered congressional districts shall be members of the same political party, and no more than two members from the odd-numbered congressional districts shall be members of the same political party. Of the members first appointed, the terms of the members appointed from the odd-numbered congressional districts shall expire on March 15, 1994, and the terms of the members appointed from the even-numbered congressional districts shall expire on March 15, 1996. Thereafter all successor members of the commission shall be appointed for four-year terms. Terms of successor members of the commission shall expire on March fifteenth of the fourth year of their term. No member of the commission shall serve on the commission after the expiration of the member's term. No person shall be appointed to more than one full four-year term on the commission.

4. Vacancies or expired terms on the commission shall be filled in the same manner as the original appointment was made, except as provided in this subsection. Within thirty days of the vacancy or ninety days before the expiration of the term, the names of two eligible nominees for membership on the commission shall be submitted to the governor by the congressional district committees of the political party or parties of the vacating member or members, from the even- or odd-numbered congressional districts, based on the residence of the vacating member or members, other than from the congressional district committees from districts then represented on the commission and from the same congressional district party committee or committees which originally appointed the member or members whose positions are vacated. Appointments to fill vacancies or expired terms shall be made within forty-five days after the deadline for submission of names by the congressional district committees, and shall be subject to the same qualifications for appointment and eligibility as is provided in subsections 2 and 3 of this section. Appointments to fill vacancies for unexpired terms shall be for the remainder of the unexpired term of the member whom the appointee succeeds, and such appointees shall be eligible for appointment to one full four-year term. If the congressional district committee does not submit the required two nominees within the thirty days or if the congressional district committee does not submit the two nominees within an additional thirty days after receiving notice from the governor to submit the nominees, then the governor may appoint a person or persons who shall be subject to the same qualifications for appointment and eligibility as provided in subsections 2 and 3 of this section.

5. The governor, with the advice and consent of the senate, may remove any member only for substantial neglect of duty, inability to discharge the powers and duties of office, gross misconduct or conviction of a felony or a crime involving moral turpitude. Members of the commission also may be removed from office by concurrent resolution of the general assembly signed by the governor. If such resolution receives the vote of two-thirds or more of the membership of both houses of the general assembly, the signature of the governor shall not be necessary to effect removal. The office of any member of the commission who moves from the congressional district from which the member was appointed shall be deemed vacated upon such change of residence.

6. The commission shall elect biennially one of its members as the chairman. The chairman may not succeed himself or herself after two years. No member of the commission shall succeed as chairman any member of the same political party as himself or herself. At least four members are necessary to constitute a quorum, and at least four affirmative votes shall be required for any action or recommendation of the commission.

7. No member or employee of the commission, during the person's term of service, shall hold or be a candidate for any other public office.

8. In the event that a retired judge is appointed as a member of the commission, the judge shall not serve as a special investigator while serving as a member of the commission.

9. No member of the commission shall, during the member's term of service or within one year thereafter:

- (1) Be employed by the state or any political subdivision of the state;
- (2) Be employed as a lobbyist;
- (3) Serve on any other governmental board or commission;
- (4) Be an officer of any political party or political organization;
- (5) Permit the person's name to be used, or make contributions, in support of or in opposition to any candidate or proposition;
- (6) Participate in any way in any election campaign; except that a member or employee of the commission shall retain the right to register and vote in any election, to express the person's opinion privately on political subjects or candidates, to participate in the activities of a civic, community, social, labor or professional organization and to be a member of a political party.

10. Each member of the commission shall receive, as full compensation for the member's services, the sum of one hundred dollars per day for each full day actually spent on work of the commission, and the member's actual and necessary expenses incurred in the performance of the member's official duties.

11. The commission shall appoint an executive director who shall serve subject to the supervision of and at the pleasure of the commission, but in no event for more than six years. The executive director shall be responsible for the administrative operations of the commission and perform such other duties as may be delegated or assigned to the director by law or by rule of the commission. The executive director shall employ staff and retain such contract services as the director deems necessary, within the limits authorized by appropriations by the general assembly.

12. Beginning on January 1, 1993, all lobbyist registration and expenditure reports filed pursuant to section 105.473, financial interest statements filed pursuant to subdivision (1) of section 105.489, and campaign finance disclosure reports filed other than with election authorities or local election authorities as provided by section 130.026, RSMo, shall be filed with the commission.

13. Within sixty days of the initial meeting of the first commission appointed, the commission shall obtain from the clerk of the supreme court or the state courts administrator a list of retired appellate and circuit court judges who did not leave the judiciary as a result of being defeated in an election. The executive director shall determine those judges who indicate their desire to serve as special investigators and to investigate any and all complaints referred to them by the commission. The executive director shall maintain an updated list of those judges

qualified and available for appointment to serve as special investigators. Such list shall be updated at least annually. The commission shall refer complaints to such special investigators on that list on a rotating schedule which ensures a random assignment of each special investigator. Each special investigator shall receive only one unrelated investigation at a time and shall not be assigned to a second or subsequent investigation until all other eligible investigators on the list have been assigned to an investigation. In the event that no special investigator is qualified or available to conduct a particular investigation, the commission may appoint a special investigator to conduct such particular investigation.

14. The commission shall have the following duties and responsibilities relevant to the impartial and effective enforcement of sections 105.450 to 105.496 and chapter 130, RSMo, as provided in sections 105.955 to 105.963:

(1) Receive and review complaints regarding alleged violation of sections 105.450 to 105.496 and chapter 130, RSMo, conduct initial reviews and investigations regarding such complaints as provided herein; refer complaints to appropriate prosecuting authorities and appropriate disciplinary authorities along with recommendations for sanctions; and initiate judicial proceedings as allowed by sections 105.955 to 105.963;

(2) Review and **investigate** any reports and statements required by the campaign finance disclosure laws contained in chapter 130, RSMo, and financial interest disclosure laws or lobbyist registration and reporting laws as provided by sections 105.470 to 105.492, for timeliness, accuracy and completeness of content as provided in sections 105.955 to 105.963;

(3) **Conduct investigations as provided in subsection 2 of section 105.959;**

(4) Develop appropriate systems to file and maintain an index of all such reports and statements to facilitate public access to such information, except as may be limited by confidentiality requirements otherwise provided by law, including cross-checking of information contained in such statements and reports. The commission may enter into contracts with the appropriate filing officers to effectuate such system. Such filing officers shall cooperate as necessary with the commission as reasonable and necessary to effectuate such purposes;

~~[(4)]~~ (5) Provide information and assistance to lobbyists, elected and appointed officials, and employees of the state and political subdivisions in carrying out the provisions of sections 105.450 to 105.496 and chapter 130, RSMo;

~~[(5)]~~ (6) Make recommendations to the governor and general assembly or any state agency on the need for further legislation with respect to the ethical conduct of public officials and employees and to advise state and local government in the development of local government codes of ethics and methods of disclosing conflicts of interest as the commission may deem appropriate to promote high ethical standards among all elected and appointed officials or employees of the state or any political subdivision thereof and lobbyists;

~~[(6)]~~ (7) Render advisory opinions as provided by this section;

~~[(7)]~~ (8) Promulgate rules relating to the provisions of sections 105.955 to 105.963 and chapter 130, RSMo. All rules and regulations issued by the commission shall be prospective only in operation;

~~[(8)]~~ (9) Request and receive from the officials and entities identified in subdivision (6) of section 105.450 designations of decision-making public servants.

15. In connection with such powers provided by sections 105.955 to 105.963 and chapter 130, RSMo, the commission may:

(1) Subpoena witnesses and compel their attendance and testimony. Subpoenas shall be served and enforced in the same manner provided by section 536.077, RSMo;

(2) Administer oaths and affirmations;

(3) Take evidence and require by subpoena duces tecum the production of books, papers, and other records relating to any matter being investigated or to the performance of the commission's duties or exercise of its powers. Subpoenas duces tecum shall be served and enforced in the same manner provided by section 536.077, RSMo;

(4) Employ such personnel, including legal counsel, and contract for services including legal counsel, within the limits of its appropriation, as it deems necessary provided such legal counsel, either employed or contracted, represents the Missouri ethics commission before any state agency or before the courts at the request of the Missouri ethics commission. Nothing in this section shall limit the authority of the Missouri ethics commission as provided for in subsection 2 of section 105.961; and

(5) Obtain information from any department, division or agency of the state or any political subdivision reasonably calculated to lead to the discovery of evidence which will reasonably assist the commission in carrying out the duties prescribed in sections 105.955 to 105.963 and chapter 130, RSMo.

16. (1) Upon written request for an advisory opinion received by the commission, and if the commission determines that the person requesting the opinion would be directly affected by the application of law to the facts presented by the requesting person, the commission shall issue a written opinion advising the person who made the request, in response to the person's particular request, regarding any issue that the commission can receive a complaint on pursuant to section 105.957. The commission may decline to issue a written opinion by a vote of four members and shall provide to the requesting person the reason for the refusal in writing. The commission shall give an approximate time frame as to when the written opinion shall be issued. Such advisory opinions shall be issued no later than ninety days from the date of receipt by the commission. Such requests and advisory opinions, deleting the name and identity of the requesting person, shall be compiled and published by the commission on at least an annual basis. Advisory opinions issued by the commission shall be maintained and made available for public inspection and copying at the office of the commission during normal business hours. Any advisory opinion or portion of an advisory opinion rendered pursuant to this subsection shall be withdrawn by the commission if, after hearing thereon, the joint committee on administrative rules finds that such advisory opinion is beyond or contrary to the statutory authority of the commission or is inconsistent with the legislative intent of any law enacted by the general assembly, and after the general assembly, by concurrent resolution, votes to adopt the findings and conclusions of the joint committee on administrative rules. Any such concurrent resolution adopted by the general assembly shall be published at length by the commission in its publication of advisory opinions of the commission next following the adoption of such resolution, and a copy of such concurrent resolution shall be maintained by the commission, along with the withdrawn advisory opinion, in its public file of advisory opinions. The commission shall also send a copy of such resolution to the person who originally requested the withdrawn advisory opinion. Any advisory opinion issued by the ethics commission shall act as legal direction to any person requesting such opinion and no person shall be liable for relying on the opinion and it shall act as a defense of justification against prosecution. An advisory opinion of the commission shall not be withdrawn unless:

- (a) The authorizing statute is declared unconstitutional;
- (b) The opinion goes beyond the power authorized by statute; or
- (c) The authorizing statute is changed to invalidate the opinion.

(2) Upon request, the attorney general shall give the attorney general's opinion, without fee, to the commission, any elected official of the state or any political subdivision, any member of the general assembly, or any director of any department, division or agency of the state, upon any question of law regarding the effect or application of sections 105.450 to 105.496, or chapter 130, RSMo. Such opinion need be in writing only upon request of such official, member or director, and in any event shall be rendered within sixty days [that] **after** such request is delivered to the attorney general.

17. The state auditor and the state auditor's duly authorized employees who have taken the oath of confidentiality required by section 29.070, RSMo, may audit the commission and in connection therewith may inspect materials relating to the functions of the commission. Such audit shall include a determination of whether appropriations were spent within the intent of the

general assembly, but shall not extend to review of any file or document pertaining to any particular investigation, audit or review by the commission, an investigator or any staff or person employed by the commission or under the supervision of the commission or an investigator. The state auditor and any employee of the state auditor shall not disclose the identity of any person who is or was the subject of an investigation by the commission and whose identity is not public information as provided by law.

18. From time to time but no more frequently than annually the commission may request the officials and entities described in subdivision (6) of section 105.450 to identify for the commission in writing those persons associated with such office or entity which such office or entity has designated as a decision-making public servant. Each office or entity delineated in subdivision (6) of section 105.450 receiving such a request shall identify those so designated within thirty days of the commission's request.

105.957. RECEIPT OF COMPLAINTS — FORM — INVESTIGATION — DISMISSAL OF FRIVOLOUS COMPLAINTS, DAMAGES, PUBLIC REPORT. — 1. The commission shall receive any complaints alleging violation of the provisions of:

- (1) The requirements imposed on lobbyists by sections 105.470 to 105.478;
- (2) The financial interest disclosure requirements contained in sections 105.483 to 105.492;
- (3) The campaign finance disclosure requirements contained in chapter 130, RSMo;
- (4) Any code of conduct promulgated by any department, division or agency of state government, or by state institutions of higher education, or by executive order;
- (5) The conflict of interest laws contained in sections 105.450 to 105.468 and section 171.181, RSMo; and
- (6) The provisions of the constitution or state statute or order, ordinance or resolution of any political subdivision relating to the official conduct of officials or employees of the state and political subdivisions.

2. Complaints filed with the commission shall be in writing and filed only by a natural person. The complaint shall contain all facts known by the complainant that have given rise to the complaint and the complaint shall be sworn to, under penalty of perjury, by the complainant. No complaint shall be investigated unless the complaint alleges facts which, if true, fall within the jurisdiction of the commission. Within five days after receipt [of a complaint] by the commission **of a complaint which is properly signed and notarized, and which alleges facts which, if true, fall within the jurisdiction of the commission**, a copy of the complaint, including the name of the complainant, shall be delivered to the alleged violator.

3. No complaint shall be investigated which concerns alleged criminal conduct which allegedly occurred previous to the period of time allowed by law for criminal prosecution for such conduct. The commission may refuse to investigate any conduct which is the subject of civil or criminal litigation. The commission, its executive director or an investigator shall not investigate any complaint concerning conduct which is not criminal in nature which occurred more than two years prior to the date of the complaint. A complaint alleging misconduct on the part of a candidate for public office, other than those alleging failure to file the appropriate financial interest statements or campaign finance disclosure reports, shall not be accepted by the commission within sixty days prior to the primary election at which such candidate is running for office, and until after the general election.

4. If the commission finds that any complaint is frivolous in nature [or finds no probable cause to believe that there has been a violation], the commission shall dismiss the case. For purposes of this subsection, "frivolous" shall mean a complaint clearly lacking any basis in fact or law. Any person who submits a frivolous complaint shall be liable for actual and compensatory damages to the alleged violator for holding the alleged violator before the public in a false light. If the commission finds that a complaint is frivolous [or that there is not probable cause to believe there has been a violation], the commission shall issue a public report to the complainant and the alleged violator stating with particularity its reasons for dismissal of the

complaint. Upon such issuance, the complaint and all materials relating to the complaint shall be a public record as defined in chapter 610, RSMo.

5. Complaints which allege violations as described in this section which are filed with the commission shall be handled as provided by section 105.961.

105.959. REVIEW OF REPORTS AND STATEMENTS, NOTICE — INVESTIGATIONS — REPORT — REFERRAL OF REPORT — CONFIDENTIALITY. — 1. The executive director of the commission, under the supervision of the commission, shall review reports and statements filed with the commission or other appropriate officers pursuant to sections 105.470, 105.483 to 105.492, and chapter 130, RSMo, for completeness, accuracy and timeliness of filing of the reports or statements **and any records relating to the reports or statements**, and upon review, if there are reasonable grounds to believe that a violation has occurred, shall conduct an [audit] **investigation** of such reports, [and] statements, **and records and assign a special investigator following the provisions of subsection 1 of section 105.961.** [All investigations by the executive director of an alleged violation shall be strictly confidential with the exception of notification of the commission and the complainant or the person under investigation. All investigations by the executive director shall be limited to the information contained in the reports or statements. The commission shall notify the complainant or the person under investigation, by registered mail, within five days of the decision to conduct such investigation. Revealing any such confidential investigation information shall be cause for removal or dismissal of the executive director or a commission member or employee.]

2. **(1) If there are reasonable grounds to believe that a violation has occurred and after the commission unanimously votes to proceed with all six members voting, the executive director shall, without receipt of a complaint, conduct an independent investigation of any potential violations of the provisions of:**

- (a) The requirements imposed on lobbyists by section 105.470 to 105.478;**
- (b) The financial interest disclosure requirements contained in sections 105.483 to 105.492;**
- (c) The campaign finance disclosure requirements contained in chapter 130;**
- (d) Any code of conduct promulgated by any department, division, or agency of state government, or by state institutions of higher education, or by executive order;**
- (e) The conflict of interest laws contained in sections 105.450 to 105.468 and section 171.181; and**
- (f) The provisions of the constitution or state statute or order, ordinance, or resolution of any political subdivision relating to the official conduct of officials or employees of the state and political subdivisions.**

(2) If an investigation conducted under this subsection fails to establish reasonable grounds to believe that a violation has occurred, the investigation shall be terminated and the person who had been under investigation shall be notified of the reasons for the disposition of the complaint.

3. Upon findings of the appropriate filing officer which are reported to the commission in accordance with the provisions of section 130.056, RSMo, the executive director shall [audit] **investigate** disclosure reports, statements and records pertaining to such findings within a reasonable time after receipt of the reports from the appropriate filing officer.

[3. Upon a sworn written complaint of any natural person filed with the commission pursuant to section 105.957, the commission shall audit and investigate alleged violations. Within sixty days after receipt of a sworn written complaint alleging a violation, the executive director shall notify the complainant in writing of the action, if any, the executive director has taken and plans to take on the complaint. If an investigation conducted pursuant to this subsection fails to establish reasonable grounds to believe that a violation has occurred, the investigation shall be terminated and the complainant and the person who had been under investigation shall be notified of the reasons for the disposition of the complaint.]

4. The commission may make such investigations and inspections within or outside of this state as are necessary to determine compliance.

5. [If, during an audit or investigation, the commission determines that a formal investigation is necessary, the commission shall assign the investigation to a special investigator in the manner provided by subsection 1 of section 105.961.] **The commission shall notify the person under investigation under this section, by registered mail, within five days of the decision to conduct such investigation and assign a special investigator following the provisions of subsection 1 of section 105.961.**

6. After completion of an [audit or] investigation, the executive director shall provide a detailed report of such [audit or] investigation to the commission. Upon determination that there are reasonable grounds to believe that a person has violated the requirements of sections 105.470, 105.483 to 105.492, or chapter 130, RSMo, by a vote of four members of the commission, the commission may refer the report with the recommendations of the commission to the appropriate prosecuting authority together with [a copy of the audit and] the details of the investigation by the commission as is provided in subsection 2 of section 105.961.

7. All investigations by the executive director of an alleged violation shall be strictly confidential with the exception of notification of the commission and the complainant and the person under investigation. Revealing any such confidential investigation information shall be cause for removal or dismissal of the executive director or a commission member or employee.

105.961. SPECIAL INVESTIGATOR — REPORT — COMMISSION REVIEW, DETERMINATION — SPECIAL PROSECUTOR — HEARINGS — ACTION OF COMMISSION — FORMAL PROCEEDINGS — APPROPRIATE DISCIPLINARY AUTHORITIES — POWERS OF INVESTIGATORS — FEES AND EXPENSES — CONFIDENTIALITY, PENALTY — COMPENSATION. — 1. Upon receipt of a complaint as described by section 105.957 **or upon notification by the commission of an investigation under subsection 5 of section 105.959**, the commission shall assign the complaint **or investigation** to a special investigator, who may be a commission employee, who shall investigate and determine the merits of the complaint **or investigation**. Within ten days of such assignment, the special investigator shall review such complaint and disclose, in writing, to the commission any conflict of interest which the special investigator has or might have with respect to the investigation and subject thereof. Within [one hundred twenty] **ninety** days of receipt of the complaint from the commission, the special investigator shall submit the special investigator's report to the commission. The commission, after review of such report, shall determine:

(1) That there is reasonable grounds for belief that a violation has occurred; or
(2) That there are no reasonable grounds for belief that a violation exists and the complaint **or investigation** [should] **shall** be dismissed; or
(3) That additional time is necessary to complete the investigation, and the status and progress of the investigation to date. The commission, in its discretion, may allow the investigation to proceed for **no more than two** additional successive periods of [one hundred twenty] **ninety** days each, pending reports regarding the status and progress of the investigation at the end of each such period.

2. When the commission concludes, based on the report from the special investigator, or based on an [audit] **investigation** conducted pursuant to section 105.959, that there are reasonable grounds to believe that a violation of any criminal law has occurred, and if the commission believes that criminal prosecution would be appropriate upon a vote of four members of the commission, the commission shall refer the report to the Missouri office of prosecution services, prosecutors coordinators training council established in section 56.760, RSMo, which shall submit a panel of five attorneys for recommendation to the court having criminal jurisdiction, for appointment of an attorney to serve as a special prosecutor; except that, the attorney general of Missouri or any assistant attorney general shall not act as such special

prosecutor. The court shall then appoint from such panel a special prosecutor pursuant to section 56.110, RSMo, who shall have all the powers provided by section 56.130, RSMo. The court shall allow a reasonable and necessary attorney's fee for the services of the special prosecutor. Such fee shall be assessed as costs if a case is filed, or ordered by the court if no case is filed, and paid together with all other costs in the proceeding by the state, in accordance with rules and regulations promulgated by the state courts administrator, subject to funds appropriated to the office of administration for such purposes. If the commission does not have sufficient funds to pay a special prosecutor, the commission shall refer the case to the prosecutor or prosecutors having criminal jurisdiction. If the prosecutor having criminal jurisdiction is not able to prosecute the case due to a conflict of interest, the court may appoint a special prosecutor, paid from county funds, upon appropriation by the county or the attorney general to investigate and, if appropriate, prosecute the case. The special prosecutor or prosecutor shall commence an action based on the report by the filing of an information or seeking an indictment within sixty days of the date of such prosecutor's appointment, or shall file a written statement with the commission explaining why criminal charges should not be sought. If the special prosecutor or prosecutor fails to take either action required by this subsection, upon request of the commission, a new special prosecutor, who may be the attorney general, shall be appointed. The report may also be referred to the appropriate disciplinary authority over the person who is the subject of the report.

3. When the commission concludes, based on the report from the special investigator or based on an [audit] **investigation** conducted pursuant to section 105.959, that there are reasonable grounds to believe that a violation of any law has occurred which is not a violation of criminal law or that criminal prosecution is not appropriate, the commission shall conduct a hearing which shall be a closed meeting and not open to the public. The hearing shall be conducted pursuant to the procedures provided by sections 536.063 to 536.090, RSMo, and shall be considered to be a contested case for purposes of such sections. The commission shall determine, in its discretion, whether or not that there is probable cause that a violation has occurred. If the commission determines, by a vote of at least four members of the commission, that probable cause exists that a violation has occurred, the commission may refer its findings and conclusions to the appropriate disciplinary authority over the person who is the subject of the report, as described in subsection [7] **8** of this section. [After the commission determines by a vote of at least four members of the commission that probable cause exists that a violation has occurred, and the commission has referred the findings and conclusions to the appropriate disciplinary authority over the person subject of the report, the subject of the report may appeal the determination of the commission to the administrative hearing commission. Such appeal shall stay the action of the Missouri ethics commission. Such appeal shall be filed not later than the fourteenth day after the subject of the commission's action receives actual notice of the commission's action.]

4. If the appropriate disciplinary authority receiving a report from the commission pursuant to subsection 3 of this section fails to follow, within sixty days of the receipt of the report, the recommendations contained in the report, or if the commission determines, by a vote of at least four members of the commission that some action other than referral for criminal prosecution or for action by the appropriate disciplinary authority would be appropriate, the commission shall take any one or more of the following actions:

(1) Notify the person to cease and desist violation of any provision of law which the report concludes was violated and that the commission may seek judicial enforcement of its decision pursuant to subsection 5 of this section;

(2) Notify the person of the requirement to file, amend or correct any report, statement, or other document or information required by sections 105.473, 105.483 to 105.492, or chapter 130, RSMo, and that the commission may seek judicial enforcement of its decision pursuant to subsection 5 of this section; and

(3) File the report with the executive director to be maintained as a public document; or

(4) Issue a letter of concern or letter of reprimand to the person, which would be maintained as a public document; or

(5) Issue a letter that no further action shall be taken, which would be maintained as a public document; or

(6) Through reconciliation agreements or [civil action] **action of the commission**, the power to seek fees for violations in an amount not greater than one thousand dollars or double the amount involved in the violation.

5. Upon vote of at least four members, the commission may initiate formal judicial proceedings **in the circuit court of Cole County** seeking to obtain any of the following orders:

(1) Cease and desist violation of any provision of sections 105.450 to 105.496, or chapter 130, RSMo, or sections 105.955 to 105.963;

(2) Pay any civil penalties required by sections 105.450 to 105.496 or chapter 130, RSMo;

(3) File any reports, statements, or other documents or information required by sections 105.450 to 105.496, or chapter 130, RSMo; or

(4) Pay restitution for any unjust enrichment the violator obtained as a result of any violation of any criminal statute as described in subsection 6 of this section. [The Missouri ethics commission shall give actual notice to the subject of the complaint of the proposed action as set out in this section. The subject of the complaint may appeal the action of the Missouri ethics commission, other than a referral for criminal prosecution, to the administrative hearing commission. Such appeal shall stay the action of the Missouri ethics commission. Such appeal shall be filed no later than fourteen days after the subject of the commission's actions receives actual notice of the commission's actions.]

6. After the commission determines by a vote of at least four members of the commission that a violation has occurred, other than a referral for criminal prosecution, and the commission has referred the findings and conclusions to the appropriate disciplinary authority over the person who is the subject of the report, or has taken an action under subsection 4 of this section, the subject of the report may appeal the determination of the commission to the circuit court of Cole County. The court shall conduct a de novo review of the determination of the commission. Such appeal shall stay the action of the Missouri ethics commission. Such appeal shall be filed not later than the fourteenth day after the subject of the commission's action receives actual notice of the commission's action. If a petition for judicial review of a final order is not filed as provided in this section or when an order for fees under subsection 4 of this section becomes final following an appeal to the circuit court of Cole County, the commission may file a certified copy of the final order with the circuit court of Cole County. When any order for fees under subsection 4 of this section becomes final, the commission may file a certified copy of the final order with the circuit court of Cole County. The order so filed shall have the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

[6.] 7. In the proceeding in **the circuit court of Cole County**, the commission may seek restitution against any person who has obtained unjust enrichment as a result of violation of any provision of sections 105.450 to 105.496, or chapter 130, RSMo, and may recover on behalf of the state or political subdivision with which the alleged violator is associated, damages in the amount of any unjust enrichment obtained and costs and attorney's fees as ordered by the court.

[7.] 8. The appropriate disciplinary authority to whom a report shall be sent pursuant to subsection 2 or 3 of this section shall include, but not be limited to, the following:

(1) In the case of a member of the general assembly, the ethics committee of the house of which the subject of the report is a member;

(2) In the case of a person holding an elective office or an appointive office of the state, if the alleged violation is an impeachable offense, the report shall be referred to the ethics committee of the house of representatives;

(3) In the case of a person holding an elective office of a political subdivision, the report shall be referred to the governing body of the political subdivision;

(4) In the case of any officer or employee of the state or of a political subdivision, the report shall be referred to the person who has immediate supervisory authority over the employment by the state or by the political subdivision of the subject of the report;

(5) In the case of a judge of a court of law, the report shall be referred to the commission on retirement, removal and discipline, or if the inquiry involves an employee of the judiciary to the applicable presiding judge;

(6) In the case of a person holding an appointive office of the state, if the alleged violation is not an impeachable offense, the report shall be referred to the governor;

(7) In the case of a statewide elected official, the report shall be referred to the attorney general;

(8) In a case involving the attorney general, the report shall be referred to the prosecuting attorney of Cole County.

[8.] 9. The special investigator having a complaint referred to the special investigator by the commission shall have the following powers:

(1) To request and shall be given access to information in the possession of any person or agency which the special investigator deems necessary for the discharge of the special investigator's responsibilities;

(2) To examine the records and documents of any person or agency, unless such examination would violate state or federal law providing for confidentiality;

(3) To administer oaths and affirmations;

(4) Upon refusal by any person to comply with a request for information relevant to an investigation, an investigator may issue a subpoena for any person to appear and give testimony, or for a subpoena duces tecum to produce documentary or other evidence which the investigator deems relevant to a matter under the investigator's inquiry. The subpoenas and subpoenas duces tecum may be enforced by applying to a judge of the circuit court of Cole County or any county where the person or entity that has been subpoenaed resides or may be found, for an order to show cause why the subpoena or subpoena duces tecum should not be enforced. The order and a copy of the application therefor shall be served in the same manner as a summons in a civil action, and if, after hearing, the court determines that the subpoena or subpoena duces tecum should be sustained and enforced, the court shall enforce the subpoena or subpoena duces tecum in the same manner as if it had been issued by the court in a civil action; and

(5) To request from the commission such investigative, clerical or other staff assistance or advancement of other expenses which are necessary and convenient for the proper completion of an investigation. Within the limits of appropriations to the commission, the commission may provide such assistance, whether by contract to obtain such assistance or from staff employed by the commission, or may advance such expenses.

[9.] 10. (1) Any retired judge may request in writing to have the judge's name removed from the list of special investigators subject to appointment by the commission or may request to disqualify himself or herself from any investigation. Such request shall include the reasons for seeking removal;

(2) By vote of four members of the commission, the commission may disqualify a judge from a particular investigation or may permanently remove the name of any retired judge from the list of special investigators subject to appointment by the commission.

[10.] 11. Any person who is the subject of any investigation pursuant to this section shall be entitled to be represented by counsel at any proceeding before the special investigator or the commission.

[11.] 12. The provisions of sections 105.957, 105.959 and 105.961 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. The

provisions of this section shall not be construed to limit or affect any other remedy or right of appeal or objection.

[12.] **13.** No person shall be required to make or file a complaint to the commission as a prerequisite for exhausting the person's administrative remedies before pursuing any civil cause of action allowed by law.

[13.] **14.** If, in the opinion of the commission, the complaining party was motivated by malice or reason contrary to the spirit of any law on which such complaint was based, in filing the complaint without just cause, this finding shall be reported to appropriate law enforcement authorities. Any person who knowingly files a complaint without just cause, or with malice, is guilty of a class A misdemeanor.

[14.] **15.** A respondent party who prevails in a formal judicial action brought by the commission shall be awarded those reasonable fees and expenses incurred by that party in the formal judicial action, unless the court finds that the position of the commission was substantially justified or that special circumstances make such an award unjust.

[15.] **16.** The special investigator and members and staff of the commission shall maintain confidentiality with respect to all matters concerning a complaint [until and if a report is filed with the commission], with the exception of communications with any person which are necessary to the investigation. [The report filed with the commission resulting from a complaint acted upon under the provisions of this section shall not contain the name of the complainant or other person providing information to the investigator, if so requested in writing by the complainant or such other person.] Any person who violates the confidentiality requirements imposed by this section or subsection 17 of section 105.955 required to be confidential is guilty of a class A misdemeanor and shall be subject to removal from or termination of employment by the commission.

[16.] **17.** Any judge of the court of appeals or circuit court who ceases to hold such office by reason of the judge's retirement and who serves as a special investigator pursuant to this section shall receive annual compensation, salary or retirement for such services at the rates of compensation provided for senior judges by subsections 1, 2 and 4 of section 476.682, RSMo. Such retired judges shall by the tenth day of each month following any month in which the judge provided services pursuant to this section certify to the commission and to the state courts administrator the amount of time engaged in such services by hour or fraction thereof, the dates thereof, and the expenses incurred and allowable pursuant to this section. The commission shall then issue a warrant to the state treasurer for the payment of the salary and expenses to the extent, and within limitations, provided for in this section. The state treasurer upon receipt of such warrant shall pay the same out of any appropriations made for this purpose on the last day of the month during which the warrant was received by the state treasurer.

105.963. ASSESSMENTS OF COMMITTEES, CAMPAIGN DISCLOSURE REPORTS — NOTICE — PENALTY — ASSESSMENTS OF FINANCIAL INTEREST STATEMENTS — NOTICE — PENALTIES — EFFECTIVE DATE. — 1. The executive director shall assess every committee, as defined in section 130.011, RSMo, failing to file with a filing officer other than a local election authority as provided by section 130.026, RSMo, a campaign disclosure report **or statement of limited activity** as required by chapter 130, RSMo, other than the report required pursuant to subdivision (1) of subsection 1 of section 130.046, RSMo, a late filing fee of [ten] **fifty** dollars for each day after such report is due to the commission, **provided that the total amount of such fees assessed under this subsection per report shall not exceed three thousand dollars.** The executive director shall [mail] **send** a notice[, by registered mail,] to any candidate and the treasurer of any committee who fails to file such report **within seven business days of such failure to file** informing such person of such failure and the fees provided by this section. [If the candidate or treasurer of any committee persists in such failure for a period in excess of thirty days beyond receipt of such notice, the amount of the late filing fee shall increase to one hundred

dollars for each day that the report is not filed, provided that the total amount of such fees assessed pursuant to this subsection per report shall not exceed three thousand dollars.]

2. [(1)] Any [candidate for state or local office who] **committee that** fails to file a campaign disclosure report required pursuant to subdivision (1) of subsection 1 of section 130.046, RSMo, other than a report required to be filed with a local election authority as provided by section 130.026, RSMo, shall be assessed by the executive director a late filing fee of one hundred dollars for each day that the report is not filed, [until the first day after the date of the election. After such election date, the amount of such late filing fee shall accrue at the rate of ten dollars per day that such report remains unfiled, except as provided in subdivision (2) of this subsection.

(2)] **provided that the total amount of such fees assessed under this subsection per report shall not exceed three thousand dollars.** The executive director shall [mail] **send** a notice[, by certified mail or other means to give actual notice,] to any candidate **and the treasurer of any committee** who fails to file the report described in [subdivision (1) of] this subsection **within seven business days of such failure to file** informing such person of such failure and the fees provided by this section. [If the candidate persists in such failure for a period in excess of thirty days beyond receipt of such notice, the amount of the late filing fee shall increase to one hundred dollars for each day that the report is not filed, provided that the total amount of such fees assessed pursuant to this subsection per report shall not exceed six thousand dollars.]

3. The executive director shall assess every person required to file a financial interest statement pursuant to sections 105.483 to 105.492 failing to file such a financial interest statement with the commission a late filing fee of ten dollars for each day after such statement is due to the commission. The executive director shall [mail] **send** a notice[, by certified mail,] to any person who fails to file such statement informing the individual required to file of such failure and the fees provided by this section. If the person persists in such failure for a period in excess of thirty days beyond receipt of such notice, the amount of the late filing fee shall increase to one hundred dollars for each day thereafter that the statement is late, provided that the total amount of such fees assessed pursuant to this subsection per statement shall not exceed six thousand dollars.

4. Any person assessed a late filing fee may seek review of such assessment or the amount of late filing fees assessed, at the person's option, by filing a petition within fourteen days after receiving [actual] notice of assessment with [the administrative hearing commission, or without exhausting the person's administrative remedies may seek review of such issues with] the circuit court of Cole County.

5. The executive director of the Missouri ethics commission shall collect such late filing fees as are provided for in this section. Unpaid late filing fees shall be collected by action filed by the commission. The commission shall contract with the appropriate entity to collect such late filing fees after a thirty-day delinquency. If not collected within one hundred twenty days, the Missouri ethics commission shall file a petition in Cole County circuit court to seek a judgment on said fees. **After obtaining a judgment for the unpaid late filing fees, the commission or any entity contracted by the commission may proceed to collect the judgment in any manner authorized by law, including but not limited to garnishment of and execution against the committee's official depository account as set forth in subsection 4 of section 130.021 after a thirty-day delinquency.** All late filing fees collected pursuant to this section shall be transmitted to the state treasurer and deposited to the general revenue fund.

6. The late filing fees provided by this section shall be in addition to any penalty provided by law for violations of sections 105.483 to 105.492 or chapter 130, RSMo.

7. If any **lobbyist fails to file a lobbyist report in a timely manner and that lobbyist is assessed a late fee, or if any individual who is required to file a personal financial disclosure statement fails to file such disclosure statement in a timely manner and is assessed a late fee, or if any candidate or the treasurer of any committee fails to file a**

campaign disclosure report **or a statement of limited activity** in a timely manner and that candidate **or treasurer of any committee who fails to file a disclosure statement in a timely manner and** is assessed a late filing fee, the **lobbyist, individual,** candidate, [candidate committee treasurer or assistant treasurer] **or the treasurer of any committee** may file an appeal of the assessment of the late filing fee with the commission. The commission may forgive the assessment of the late filing fee upon a showing of good cause. Such appeal shall be filed within ten days of the receipt of notice of the assessment of the late filing fee.

105.966. ETHICS COMMISSION TO COMPLETE ALL COMPLAINT INVESTIGATIONS, PROCEDURE. — 1. [Except as provided in subsection 2 of this section,] The ethics commission shall complete and make determinations pursuant to subsection 1 of section 105.961 on all complaint investigations[, except those complaint investigations assigned to a retired judge,] within ninety days of initiation.

2. [The commission may file a petition in the Cole County circuit court to request an additional ninety days for investigation upon proving by a preponderance of the evidence that additional time is needed. Upon filing the petition, the ninety-day period shall be tolled until the court determines whether additional time is needed.

3. The hearing shall be held in camera before the Cole County circuit court and all records of the proceedings shall be closed.

4. The provisions of this section shall apply to all ongoing complaint investigations on July 13, 1999.

5.] Any complaint investigation not completed and decided upon by the ethics commission within the time allowed by this section shall be deemed to not have been a violation.

115.364. PREVIOUSLY DISQUALIFIED CANDIDATE NOT ELIGIBLE FOR SELECTION BY PARTY NOMINATING COMMITTEE. — **If a candidate has been previously disqualified as a candidate for an office on the primary election ballot, that individual shall not be selected by a party nominating committee as a candidate for nomination to the same office on the same primary election ballot or as a candidate for the same office on the corresponding general election ballot. If a candidate has been previously disqualified as a candidate for an office on the general election ballot, that individual shall not be selected by a party nominating committee as a candidate for the same office on the same general election ballot.**

130.011. DEFINITIONS. — As used in this chapter, unless the context clearly indicates otherwise, the following terms mean:

(1) "Appropriate officer" or "appropriate officers", the person or persons designated in section 130.026 to receive certain required statements and reports;

(2) "Ballot measure" or "measure", any proposal submitted or intended to be submitted to qualified voters for their approval or rejection, including any proposal submitted by initiative petition, referendum petition, or by the general assembly or any local governmental body having authority to refer proposals to the voter;

(3) "Candidate", an individual who seeks nomination or election to public office. The term "candidate" includes an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective public office to be sought has been finally determined by such individual at the time the individual meets the conditions described in paragraph (a) or (b) of this subdivision, and an individual who is a write-in candidate as defined in subdivision (28) of this section. A candidate shall be deemed to seek nomination or election when the person first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the person's candidacy for office; or

(b) Knows or has reason to know that contributions are being received or expenditures are being made or space or facilities are being reserved with the intent to promote the person's candidacy for office; except that, such individual shall not be deemed a candidate if the person files a statement with the appropriate officer within five days after learning of the receipt of contributions, the making of expenditures, or the reservation of space or facilities disavowing the candidacy and stating that the person will not accept nomination or take office if elected; provided that, if the election at which such individual is supported as a candidate is to take place within five days after the person's learning of the above-specified activities, the individual shall file the statement disavowing the candidacy within one day; or

(c) Announces or files a declaration of candidacy for office;

(4) "Cash", currency, coin, United States postage stamps, or any negotiable instrument which can be transferred from one person to another person without the signature or endorsement of the transferor;

(5) "Check", a check drawn on a state or federal bank, or a draft on a negotiable order of withdrawal account in a savings and loan association or a share draft account in a credit union;

(6) "Closing date", the date through which a statement or report is required to be complete;

(7) "Committee", a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee or for the purpose of contributing funds to another committee:

(a) "Committee", does not include:

a. A person or combination of persons, if neither the aggregate of expenditures made nor the aggregate of contributions received during a calendar year exceeds five hundred dollars and if no single contributor has contributed more than two hundred fifty dollars of such aggregate contributions;

b. An individual, other than a candidate, who accepts no contributions and who deals only with the individual's own funds or property;

c. A corporation, cooperative association, partnership, proprietorship, or joint venture organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure, and it accepts no contributions, and all expenditures it makes are from its own funds or property obtained in the usual course of business or in any commercial or other transaction and which are not contributions as defined by subdivision (12) of this section;

d. A labor organization organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates, or the qualification, passage, or defeat of any ballot measure, and it accepts no contributions, and expenditures made by the organization are from its own funds or property received from membership dues or membership fees which were given or solicited for the purpose of supporting the normal and usual activities and functions of the organization and which are not contributions as defined by subdivision (12) of this section;

e. A person who acts as an authorized agent for a committee in soliciting or receiving contributions or in making expenditures or incurring indebtedness on behalf of the committee if such person renders to the committee treasurer or deputy treasurer or candidate, if applicable, an accurate account of each receipt or other transaction in the detail required by the treasurer to comply with all record-keeping and reporting requirements of this chapter;

f. Any department, agency, board, institution or other entity of the state or any of its subdivisions or any officer or employee thereof, acting in the person's official capacity;

(b) The term "committee" includes, but is not limited to, each of the following committees: campaign committee, candidate committee, [continuing] **political action** committee, **exploratory committee**, and political party committee;

(8) "Campaign committee", a committee, other than a candidate committee, which shall be formed by an individual or group of individuals to receive contributions or make expenditures and whose sole purpose is to support or oppose the qualification and passage of one or more particular ballot measures in an election or the retention of judges under the nonpartisan court plan, such committee shall be formed no later than thirty days prior to the election for which the committee receives contributions or makes expenditures, and which shall terminate the later of either thirty days after the general election or upon the satisfaction of all committee debt after the general election, except that no committee retiring debt shall engage in any other activities in support of a measure for which the committee was formed;

(9) "Candidate committee", a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy and which shall continue in existence for use by an elected candidate or which shall terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election, except that no committee retiring debt shall engage in any other activities in support of the candidate for which the committee was formed. Any candidate for elective office shall have only one candidate committee for the elective office sought, which is controlled directly by the candidate for the purpose of making expenditures. A candidate committee is presumed to be under the control and direction of the candidate unless the candidate files an affidavit with the appropriate officer stating that the committee is acting without control or direction on the candidate's part;

(10) ["Continuing committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee or campaign committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. "Continuing committee" includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures;

(11) ["Connected organization", any organization such as a corporation, a labor organization, a membership organization, a cooperative, or trade or professional association which expends funds or provides services or facilities to establish, administer or maintain a committee or to solicit contributions to a committee from its members, officers, directors, employees or security holders. An organization shall be deemed to be the connected organization if more than fifty percent of the persons making contributions to the committee during the current calendar year are members, officers, directors, employees or security holders of such organization or their spouses;

[(12)] (11) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification, passage or defeat of any ballot measure, or for the support of any committee supporting or opposing candidates or ballot measures or for paying debts or obligations of any candidate or committee previously incurred for the above purposes.

A contribution of anything of value shall be deemed to have a money value equivalent to the fair market value. "Contribution" includes, but is not limited to:

(a) A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

(b) Payment by any person, other than a candidate or committee, to compensate another person for services rendered to that candidate or committee;

(c) Receipts from the sale of goods and services, including the sale of advertising space in a brochure, booklet, program or pamphlet of a candidate or committee and the sale of tickets or political merchandise;

(d) Receipts from fund-raising events including testimonial affairs;

(e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in an election campaign or used or intended for the payment of such debts or obligations of a candidate or committee previously incurred, or which was made or received by a committee;

(f) Funds received by a committee which are transferred to such committee from another committee or other source, except funds received by a candidate committee as a transfer of funds from another candidate committee controlled by the same candidate but such transfer shall be included in the disclosure reports;

(g) Facilities, office space or equipment supplied by any person to a candidate or committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or committees, on an equal basis for similar purposes on the same conditions;

(h) The direct or indirect payment by any person, other than a connected organization, of the costs of establishing, administering, or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee;

(i) "Contribution" does not include:

a. Ordinary home hospitality or services provided without compensation by individuals volunteering their time in support of or in opposition to a candidate, committee or ballot measure, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a contribution which is expressly and unconditionally rejected and returned to the donor within ten business days after receipt or transmitted to the state treasurer;

c. Interest earned on deposit of committee funds;

d. The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021 for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization;

[(13)] (12) "County", any one of the several counties of this state or the city of St. Louis;

[(14)] (13) "Disclosure report", an itemized report of receipts, expenditures and incurred indebtedness which is prepared on forms approved by the Missouri ethics commission and filed at the times and places prescribed;

[(15)] (14) "Election", any primary, general or special election held to nominate or elect an individual to public office, to retain or recall an elected officeholder or to submit a ballot measure to the voters, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections;

[(16)] (15) "Expenditure", a payment, advance, conveyance, deposit, donation or contribution of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any

ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee; a payment, or an agreement or promise to pay, money or anything of value, including a candidate's own money or property, for the purchase of goods, services, property, facilities or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee. An expenditure of anything of value shall be deemed to have a money value equivalent to the fair market value. "Expenditure" includes, but is not limited to:

(a) Payment by anyone other than a committee for services of another person rendered to such committee;

(b) The purchase of tickets, goods, services or political merchandise in connection with any testimonial affair or fund-raising event of or for candidates or committees, or the purchase of advertising in a brochure, booklet, program or pamphlet of a candidate or committee;

(c) The transfer of funds by one committee to another committee;

(d) The direct or indirect payment by any person, other than a connected organization for a committee, of the costs of establishing, administering or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee; but

(e) "Expenditure" does not include:

a. Any news story, commentary or editorial which is broadcast or published by any broadcasting station, newspaper, magazine or other periodical without charge to the candidate or to any person supporting or opposing a candidate or ballot measure;

b. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders, provided that the cost incurred is reported pursuant to subsection 2 of section 130.051;

c. Repayment of a loan, but such repayment shall be indicated in required reports;

d. The rendering of voluntary personal services by an individual of the sort commonly performed by volunteer campaign workers and the payment by such individual of the individual's necessary and ordinary personal expenses incidental to such volunteer activity, provided no compensation is, directly or indirectly, asked or given;

e. The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021 for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization;

f. The use of a candidate's own money or property for expense of the candidate's personal food, lodging, travel, and payment of any fee necessary to the filing for public office, if such expense is not reimbursed to the candidate from any source;

[(17)] **(16)** "Exploratory committees", a committee which shall be formed by an individual to receive contributions and make expenditures on behalf of this individual in determining whether or not the individual seeks elective office. Such committee shall terminate no later than December thirty-first of the year prior to the general election for the possible office;

[(18)] **(17)** "Fund-raising event", an event such as a dinner, luncheon, reception, coffee, testimonial, rally, auction or similar affair through which contributions are solicited or received by such means as the purchase of tickets, payment of attendance fees, donations for prizes or through the purchase of goods, services or political merchandise;

[(19)] **(18)** "In-kind contribution" or "in-kind expenditure", a contribution or expenditure in a form other than money;

~~[(20)]~~ **(19)** "Labor organization", any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work;

~~[(21)]~~ **(20)** "Loan", a transfer of money, property or anything of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part and which was contracted, used, or intended for use in an election campaign, or which was made or received by a committee or which was contracted, used, or intended to pay previously incurred campaign debts or obligations of a candidate or the debts or obligations of a committee;

~~[(22)]~~ **(21)** "Person", an individual, group of individuals, corporation, partnership, committee, proprietorship, joint venture, any department, agency, board, institution or other entity of the state or any of its political subdivisions, union, labor organization, trade or professional or business association, association, political party or any executive committee thereof, or any other club or organization however constituted or any officer or employee of such entity acting in the person's official capacity;

(22) "Political action committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee, political party committee, campaign committee, exploratory committee, or debt service committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. Such a committee includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures;

(23) "Political merchandise", goods such as bumper stickers, pins, hats, ties, jewelry, literature, or other items sold or distributed at a fund-raising event or to the general public for publicity or for the purpose of raising funds to be used in supporting or opposing a candidate for nomination or election or in supporting or opposing the qualification, passage or defeat of a ballot measure;

(24) "Political party", a political party which has the right under law to have the names of its candidates listed on the ballot in a general election;

(25) "Political party committee", [a state, district, county, city, or area committee of a political party, as defined in section 115.603, RSMo, which may be organized as a not-for-profit corporation under Missouri law, and which committee is of continuing existence, and has the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party] a committee of a political party which may be organized as a not-for-profit corporation under Missouri law and has the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party. Political party committees shall only take the following forms:

(a) One congressional district committee per political party for each congressional district in the state; and

(b) One state party committee per political party;

(26) "Public office" or "office", any state, judicial, county, municipal, school or other district, ward, township, or other political subdivision office or any political party office which is filled by a vote of registered voters;

(27) "Regular session", includes that period beginning on the first Wednesday after the first Monday in January and ending following the first Friday after the second Monday in May;

(28) "Write-in candidate", an individual whose name is not printed on the ballot but who otherwise meets the definition of candidate in subdivision (3) of this section.

130.021. TREASURER FOR CANDIDATES AND COMMITTEES, WHEN REQUIRED — DUTIES — OFFICIAL DEPOSITORY ACCOUNT TO BE ESTABLISHED — STATEMENT OF ORGANIZATION FOR COMMITTEES, CONTENTS, WHEN FILED — TERMINATION OF COMMITTEE, PROCEDURE.

— 1. Every committee shall have a treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state [and reside in the district or county in which the committee sits]. A committee may also have a deputy treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state and [reside in the district or county in which the committee sits, to] serve in the capacity of committee treasurer in the event the committee treasurer is unable for any reason to perform the treasurer's duties.

2. Every candidate for offices listed in subsection 1 of section 130.016 who has not filed a statement of exemption pursuant to that subsection and every candidate for offices listed in subsection 6 of section 130.016 who is not excluded from filing a statement of organization and disclosure reports pursuant to subsection 6 of section 130.016 shall form a candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all further contributions received by such candidate and any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account established pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made through the candidate, treasurer or deputy treasurer of the person's candidate committee. Nothing in this chapter shall prevent a candidate from appointing himself or herself as a committee of one and serving as the person's own treasurer, maintaining the candidate's own records and filing all the reports and statements required to be filed by the treasurer of a candidate committee.

3. A candidate who has more than one candidate committee supporting the person's candidacy shall designate one of those candidate committees as the committee responsible for consolidating the aggregate contributions to all such committees under the candidate's control and direction as required by section 130.041. **No person shall form a new committee or serve as a deputy treasurer of any committee as defined in section 130.011 until the person or the treasurer of any committee previously formed by the person or where the person served as treasurer or deputy treasurer has filed all required campaign disclosure reports and statements of limited activity for all prior elections and paid outstanding previously imposed fees assessed against that person by the ethics commission.**

4. (1) Every committee shall have a single official fund depository within this state which shall be a federally or state-chartered bank, a federally or state-chartered savings and loan association, or a federally or state-chartered credit union in which the committee shall open and thereafter maintain at least one official depository account in its own name. An "official depository account" shall be a checking account or some type of negotiable draft or negotiable order of withdrawal account, and the official fund depository shall, regarding an official depository account, be a type of financial institution which provides a record of deposits, canceled checks or other canceled instruments of withdrawal evidencing each transaction by maintaining copies within this state of such instruments and other transactions. All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account. Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account and the committee treasurer, deputy treasurer or candidate. Contributions received by a committee shall not be commingled with any funds of an agent of the committee, a candidate or any other person, except that contributions from a candidate of the candidate's own funds to the person's candidate committee shall be deposited to an official depository account of the person's candidate committee. No expenditure shall be made by a committee when the office

of committee treasurer is vacant except that when the office of a candidate committee treasurer is vacant, the candidate shall be the treasurer until the candidate appoints a new treasurer.

(2) A committee treasurer, deputy treasurer or candidate may withdraw funds from a committee's official depository account and deposit such funds in one or more savings accounts in the committee's name in any bank, savings and loan association or credit union within this state, and may also withdraw funds from an official depository account for investment in the committee's name in any certificate of deposit, bond or security. Proceeds from interest or dividends from a savings account or other investment or proceeds from withdrawals from a savings account or from the sale of an investment shall not be expended or reinvested, except in the case of renewals of certificates of deposit, without first redepositing such proceeds in an official depository account. Investments, other than savings accounts, held outside the committee's official depository account at any time during a reporting period shall be disclosed by description, amount, any identifying numbers and the name and address of any institution or person in which or through which it is held in an attachment to disclosure reports the committee is required to file. Proceeds from an investment such as interest or dividends or proceeds from its sale, shall be reported by date and amount. In the case of the sale of an investment, the names and addresses of the persons involved in the transaction shall also be stated. Funds held in savings accounts and investments, including interest earned, shall be included in the report of money on hand as required by section 130.041.

5. The treasurer or deputy treasurer acting on behalf of any person or organization or group of persons which is a committee by virtue of the definitions of committee in section 130.011 and any candidate who is not excluded from forming a committee in accordance with the provisions of section 130.016 shall file a statement of organization with the appropriate officer within twenty days after the person or organization becomes a committee but no later than the date for filing the first report required pursuant to the provisions of section 130.046. The statement of organization shall contain the following information:

(1) The name, mailing address and telephone number, if any, of the committee filing the statement of organization. If the committee is deemed to be affiliated with a connected organization as provided in subdivision (11) of section 130.011, the name of the connected organization, or a legally registered fictitious name which reasonably identifies the connected organization, shall appear in the name of the committee. If the committee is a candidate committee, the name of the candidate shall be a part of the committee's name;

(2) The name, mailing address and telephone number of the candidate;

(3) The name, mailing address and telephone number of the committee treasurer, and the name, mailing address and telephone number of its deputy treasurer if the committee has named a deputy treasurer;

(4) The names, mailing addresses and titles of its officers, if any;

(5) The name and mailing address of any connected organizations with which the committee is affiliated;

(6) The name and mailing address of its depository, and the name and account number of each account the committee has in the depository. The account number of each account shall be redacted prior to disclosing the statement to the public;

(7) Identification of the major nature of the committee such as a candidate committee, campaign committee, [continuing] **political action** committee, political party committee, incumbent committee, or any other committee according to the definition of committee in section 130.011;

(8) In the case of the candidate committee designated in subsection 3 of this section, the full name and address of each other candidate committee which is under the control and direction of the same candidate, together with the name, address and telephone number of the treasurer of each such other committee;

(9) The name and office sought of each candidate supported or opposed by the committee;

(10) The ballot measure concerned, if any, and whether the committee is in favor of or opposed to such measure.

6. A committee may omit the information required in subdivisions (9) and (10) of subsection 5 of this section if, on the date on which it is required to file a statement of organization, the committee has not yet determined the particular candidates or particular ballot measures it will support or oppose.

7. A committee which has filed a statement of organization and has not terminated shall not be required to file another statement of organization, except that when there is a change in any of the information previously reported as required by subdivisions (1) to (8) of subsection 5 of this section an amended statement of organization shall be filed within twenty days after the change occurs, but no later than the date of the filing of the next report required to be filed by that committee by section 130.046.

8. Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed. The termination statement shall include: the distribution made of any remaining surplus funds and the disposition of any deficits; and the name, mailing address and telephone number of the individual responsible for preserving the committee's records and accounts as required in section 130.036.

9. Any statement required by this section shall be signed and attested by the committee treasurer or deputy treasurer, and by the candidate in the case of a candidate committee.

10. A committee domiciled outside this state shall be required to file a statement of organization and appoint a treasurer residing in this state and open an account in a depository within this state; provided that either of the following conditions prevails:

(1) The aggregate of all contributions received from persons domiciled in this state exceeds twenty percent in total dollar amount of all funds received by the committee in the preceding twelve months; or

(2) The aggregate of all contributions and expenditures made to support or oppose candidates and ballot measures in this state exceeds one thousand five hundred dollars in the current calendar year.

11. If a committee domiciled in this state receives a contribution of one thousand five hundred dollars or more from any committee domiciled outside of this state, the committee domiciled in this state shall file a disclosure report with the commission. The report shall disclose the full name, mailing address, telephone numbers and domicile of the contributing committee and the date and amount of the contribution. The report shall be filed within forty-eight hours of the receipt of such contribution if the contribution is received after the last reporting date before the election.

[12. Each legislative and senatorial district committee shall retain only one address in the district it sits for the purpose of receiving contributions.]

130.026. ELECTION AUTHORITY DEFINED — APPROPRIATE OFFICER DESIGNATED FOR FILING OF REPORTS. — 1. For the purpose of this section, the term "election authority" or "local election authority" means the county clerk, except that in a city or county having a board of election commissioners the board of election commissioners shall be the election authority. For any political subdivision or other district which is situated within the jurisdiction of more than one election authority, as defined herein, the election authority is the one in whose jurisdiction the candidate resides or, in the case of ballot measures, the one in whose jurisdiction the most populous portion of the political subdivision or district for which an election is held is situated, except that a county clerk or a county board of election commissioners shall be the election authority for all candidates for elective county offices other than county clerk and for any countywide ballot measures.

2. The appropriate officer or officers for candidates and ballot measures shall be as follows:

(1) In the case of candidates for the offices of governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, judges of the supreme court and appellate court judges, the appropriate officer shall be the Missouri ethics commission;

(2) Notwithstanding the provisions of subsection 1 of this section, in the case of candidates for the offices of state senator, state representative, county clerk, and associate circuit court judges and circuit court judges, the appropriate officers shall be the Missouri ethics commission and the election authority for the place of residence of the candidate;

(3) In the case of candidates for elective municipal offices in municipalities of more than one hundred thousand inhabitants and elective county offices in counties of more than one hundred thousand inhabitants, the appropriate officers shall be the Missouri ethics commission and the election authority of the municipality or county in which the candidate seeks office;

(4) In the case of all other offices, the appropriate officer shall be the election authority of the district or political subdivision for which the candidate seeks office;

(5) In the case of ballot measures, the appropriate officer or officers shall be:

(a) The Missouri ethics commission for a statewide measure;

(b) The local election authority for any political subdivision or district as determined by the provisions of subsection 1 of this section for any measure, other than a statewide measure, to be voted on in that political subdivision or district.

3. The appropriate officer or officers for candidate committees and campaign committees shall be the same as designated in subsection 2 of this section for the candidates or ballot measures supported or opposed as indicated in the statement of organization required to be filed by any such committee.

4. The appropriate officer for political party committees shall be as follows:

(1) In the case of state party committees, the appropriate officer shall be the Missouri ethics commission;

(2) In the case of any district, county or city political party committee, the appropriate officer shall be the Missouri ethics commission and the election authority for that district, county or city.

5. The appropriate officers for a [continuing] **political action** committee and for any other committee not named in subsections 3, 4 and 5 of this section shall be as follows:

(1) The Missouri ethics commission and the election authority for the county in which the committee is domiciled; and

(2) If the committee makes or anticipates making expenditures other than direct contributions which aggregate more than five hundred dollars to support or oppose one or more candidates or ballot measures in the same political subdivision or district for which the appropriate officer is an election authority other than the one for the county in which the committee is domiciled, the appropriate officers for that committee shall include such other election authority or authorities, except that committees covered by this subsection need not file statements required by section 130.021 and reports required by subsections 6, 7 and 8 of section 130.046 with any appropriate officer other than those set forth in subdivision (1) of this subsection.

6. The term "domicile" or "domiciled" means the address of the committee listed on the statement of organization required to be filed by that committee in accordance with the provisions of section 130.021.

130.028. PROHIBITIONS AGAINST CERTAIN DISCRIMINATION OR INTIMIDATION RELATING TO ELECTIONS — CONTRIBUTIONS BY EMPLOYEES, PAYROLL DEDUCTION, WHEN. — 1. Every person, labor organization, or corporation organized or existing by virtue of the laws of this state, or doing business in this state who shall:

(1) Discriminate or threaten to discriminate against any member in this state with respect to his membership, or discharge or discriminate or threaten to discriminate against any employee

in this state, with respect to his compensation, terms, conditions or privileges of employment by reason of his political beliefs or opinions; or

(2) Coerce or attempt to coerce, intimidate or bribe any member or employee to vote or refrain from voting for any candidate at any election in this state; or

(3) Coerce or attempt to coerce, intimidate or bribe any member or employee to vote or refrain from voting for any issue at any election in this state; or

(4) Make any member or employee as a condition of membership or employment, contribute to any candidate, political committee or separate political fund; or

(5) Discriminate or threaten to discriminate against any member or employee in this state for contributing or refusing to contribute to any candidate, political committee or separate political fund with respect to the privileges of membership or with respect to his employment and the compensation, terms, conditions or privileges related thereto shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not more than five thousand dollars and confinement for not more than six months, or both, provided, after January 1, 1979, the violation of this subsection shall be a class D felony.

2. No employer, corporation, [continuing] **political action** committee, or labor organization shall receive or cause to be made contributions from its members or employees except on the advance voluntary permission of the members or employees. Violation of this section by the corporation, employer, [continuing] **political action** committee or labor organization shall be a class A misdemeanor.

3. An employer shall, upon written request by ten or more employees, provide its employees with the option of contributing to a [continuing] **political action** committee as defined in section 130.011 through payroll deduction, if the employer has a system of payroll deduction. No contribution to a [continuing] **political action** committee from an employee through payroll deduction shall be made other than to a [continuing] **political action** committee voluntarily chosen by the employee. Violation of this section shall be a class A misdemeanor.

4. Any person aggrieved by any act prohibited by this section shall, in addition to any other remedy provided by law, be entitled to maintain within one year from the date of the prohibited act, a civil action in the courts of this state, and if successful, he shall be awarded civil damages of not less than one hundred dollars and not more than one thousand dollars, together with his costs, including reasonable attorney's fees. Each violation shall be a separate cause of action.

130.031. RESTRICTIONS AND LIMITATIONS ON CONTRIBUTIONS — RECORDS REQUIRED — ANONYMOUS CONTRIBUTIONS, HOW HANDLED — CAMPAIGN MATERIALS, SPONSOR TO BE IDENTIFIED — PRIZES PROHIBITED. — 1. No contribution of cash in an amount of more than one hundred dollars shall be made by or accepted from any single contributor for any election by a [continuing] **political action** committee, a campaign committee, a political party committee, an exploratory committee or a candidate committee.

2. Except for expenditures from a petty cash fund which is established and maintained by withdrawals of funds from the committee's depository account and with records maintained pursuant to the record-keeping requirements of section 130.036 to account for expenditures made from petty cash, each expenditure of more than fifty dollars, except an in-kind expenditure, shall be made by check drawn on the committee's depository and signed by the committee treasurer, deputy treasurer or candidate. A single expenditure from a petty cash fund shall not exceed fifty dollars, and the aggregate of all expenditures from a petty cash fund during a calendar year shall not exceed the lesser of five thousand dollars or ten percent of all expenditures made by the committee during that calendar year. A check made payable to "cash" shall not be made except to replenish a petty cash fund.

3. No contribution shall be made or accepted and no expenditure shall be made or incurred, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to conceal the identity of the actual source of the contribution or the actual recipient and purpose of the expenditure. Any person who receives contributions for a

committee shall disclose to that committee's treasurer, deputy treasurer or candidate the recipient's own name and address and the name and address of the actual source of each contribution such person has received for that committee. Any person who makes expenditures for a committee shall disclose to that committee's treasurer, deputy treasurer or candidate such person's own name and address, the name and address of each person to whom an expenditure has been made and the amount and purpose of the expenditures the person has made for that committee.

4. No anonymous contribution of more than twenty-five dollars shall be made by any person, and no anonymous contribution of more than twenty-five dollars shall be accepted by any candidate or committee. If any anonymous contribution of more than twenty-five dollars is received, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and if the contributor's identity cannot be ascertained, the candidate, committee treasurer or deputy treasurer shall immediately transmit that portion of the contribution which exceeds twenty-five dollars to the state treasurer and it shall escheat to the state.

5. The maximum aggregate amount of anonymous contributions which shall be accepted in any calendar year by any committee shall be the greater of five hundred dollars or one percent of the aggregate amount of all contributions received by that committee in the same calendar year. If any anonymous contribution is received which causes the aggregate total of anonymous contributions to exceed the foregoing limitation, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and, if the contributor's identity cannot be ascertained, the committee treasurer, deputy treasurer or candidate shall immediately transmit the anonymous contribution to the state treasurer to escheat to the state.

6. Notwithstanding the provisions of subsection 5 of this section, contributions from individuals whose names and addresses cannot be ascertained which are received from a fund-raising activity or event, such as defined in section 130.011, shall not be deemed anonymous contributions, provided the following conditions are met:

- (1) There are twenty-five or more contributing participants in the activity or event;
- (2) The candidate, committee treasurer, deputy treasurer or the person responsible for conducting the activity or event makes an announcement that it is illegal for anyone to make or receive a contribution in excess of one hundred dollars unless the contribution is accompanied by the name and address of the contributor;
- (3) The person responsible for conducting the activity or event does not knowingly accept payment from any single person of more than one hundred dollars unless the name and address of the person making such payment is obtained and recorded pursuant to the record-keeping requirements of section 130.036;
- (4) A statement describing the event shall be prepared by the candidate or the treasurer of the committee for whom the funds were raised or by the person responsible for conducting the activity or event and attached to the disclosure report of contributions and expenditures required by section 130.041. The following information to be listed in the statement is in addition to, not in lieu of, the requirements elsewhere in this chapter relating to the recording and reporting of contributions and expenditures:
 - (a) The name and mailing address of the person or persons responsible for conducting the event or activity and the name and address of the candidate or committee for whom the funds were raised;
 - (b) The date on which the event occurred;
 - (c) The name and address of the location where the event occurred and the approximate number of participants in the event;
 - (d) A brief description of the type of event and the fund-raising methods used;
 - (e) The gross receipts from the event and a listing of the expenditures incident to the event;
 - (f) The total dollar amount of contributions received from the event from participants whose names and addresses were not obtained with such contributions and an explanation of why it was not possible to obtain the names and addresses of such participants;

(g) The total dollar amount of contributions received from contributing participants in the event who are identified by name and address in the records required to be maintained pursuant to section 130.036.

7. No candidate or committee in this state shall accept contributions from any out-of-state committee unless the out-of-state committee from whom the contributions are received has filed a statement of organization pursuant to section 130.021 or has filed the reports required by sections 130.049 and 130.050, whichever is applicable to that committee.

8. Any person publishing, circulating, or distributing any printed matter relative to any candidate for public office or any ballot measure shall on the face of the printed matter identify in a clear and conspicuous manner the person who paid for the printed matter with the words "Paid for by" followed by the proper identification of the sponsor pursuant to this section. For the purposes of this section, "printed matter" shall be defined to include any pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any newspaper or other periodical, sign, including signs for display on motor vehicles, or other imprinted or lettered material; but "printed matter" is defined to exclude materials printed and purchased prior to May 20, 1982, if the candidate or committee can document that delivery took place prior to May 20, 1982; any sign personally printed and constructed by an individual without compensation from any other person and displayed at that individual's place of residence or on that individual's personal motor vehicle; any items of personal use given away or sold, such as campaign buttons, pins, pens, pencils, book matches, campaign jewelry, or clothing, which is paid for by a candidate or committee which supports a candidate or supports or opposes a ballot measure and which is obvious in its identification with a specific candidate or committee and is reported as required by this chapter; and any news story, commentary, or editorial printed by a regularly published newspaper or other periodical without charge to a candidate, committee or any other person.

(1) In regard to any printed matter paid for by a candidate from the candidate's personal funds, it shall be sufficient identification to print the first and last name by which the candidate is known.

(2) In regard to any printed matter paid for by a committee, it shall be sufficient identification to print the name of the committee as required to be registered by subsection 5 of section 130.021 and the name and title of the committee treasurer who was serving when the printed matter was paid for.

(3) In regard to any printed matter paid for by a corporation or other business entity, labor organization, or any other organization not defined to be a committee by subdivision (7) of section 130.011 and not organized especially for influencing one or more elections, it shall be sufficient identification to print the name of the entity, the name of the principal officer of the entity, by whatever title known, and the mailing address of the entity, or if the entity has no mailing address, the mailing address of the principal officer.

(4) In regard to any printed matter paid for by an individual or individuals, it shall be sufficient identification to print the name of the individual or individuals and the respective mailing address or addresses, except that if more than five individuals join in paying for printed matter it shall be sufficient identification to print the words "For a list of other sponsors contact:" followed by the name and address of one such individual responsible for causing the matter to be printed, and the individual identified shall maintain a record of the names and amounts paid by other individuals and shall make such record available for review upon the request of any person. No person shall accept for publication or printing nor shall such work be completed until the printed matter is properly identified as required by this subsection.

9. Any broadcast station transmitting any matter relative to any candidate for public office or ballot measure as defined by this chapter shall identify the sponsor of such matter as required by federal law.

10. The provisions of subsection 8 or 9 of this section shall not apply to candidates for elective federal office, provided that persons causing matter to be printed or broadcast concerning

such candidacies shall comply with the requirements of federal law for identification of the sponsor or sponsors.

11. It shall be a violation of this chapter for any person required to be identified as paying for printed matter pursuant to subsection 8 of this section or paying for broadcast matter pursuant to subsection 9 of this section to refuse to provide the information required or to purposely provide false, misleading, or incomplete information.

12. It shall be a violation of this chapter for any committee to offer chances to win prizes or money to persons to encourage such persons to endorse, send election material by mail, deliver election material in person or contact persons at their homes; except that, the provisions of this subsection shall not be construed to prohibit hiring and paying a campaign staff.

13. Political action committees shall only receive contributions from individuals; unions; federal political action committees; and corporations, associations, and partnerships formed under chapters 347 to 360, and shall be prohibited from receiving contributions from other political action committees, candidate committees, political party committees, campaign committees, exploratory committees, or debt service committees. However, candidate committees, political party committees, campaign committees, exploratory committees, and debt service committees shall be allowed to return contributions to a donor political action committee that is the origin of the contribution.

14. The prohibited committee transfers described in subsection 13 of this section shall not apply to the following committees:

(1) The state house committee per political party designated by the respective majority or minority floor leader of the house of representatives or the chair of the state party if the party does not have majority or minority party status;

(2) The state senate committee per political party designated by the respective majority or minority floor leader of the senate or the chair of the state party if the party does not have majority or minority party status.

15. No person shall transfer anything of value to any committee with the intent to conceal, from the ethics commission, the identity of the actual source. Any violation of this subsection shall be punishable as follows:

(1) For the first violation, the ethics commission shall notify such person that the transfer to the committee is prohibited under this section within five days of determining that the transfer is prohibited, and that such person shall notify the committee to which the funds were transferred that the funds must be returned within ten days of such notification;

(2) For the second violation, the person transferring the funds shall be guilty of a class C misdemeanor;

(3) For the third and subsequent violations, the person transferring the funds shall be guilty of a class D felony.

16. Beginning January 1, 2011, all committees required to file campaign financial disclosure reports with the Missouri ethics commission shall file any required disclosure report in an electronic format as prescribed by the ethics commission.

130.041. DISCLOSURE REPORTS — WHO FILES — WHEN REQUIRED — CONTENTS. —

1. Except as provided in subsection 5 of section 130.016, the candidate, if applicable, treasurer or deputy treasurer of every committee which is required to file a statement of organization, shall file a legibly printed or typed disclosure report of receipts and expenditures. The reports shall be filed with the appropriate officer designated in section 130.026 at the times and for the periods prescribed in section 130.046. Except as provided in sections 130.049 and 130.050, each report shall set forth:

(1) The full name, as required in the statement of organization pursuant to subsection 5 of section 130.021, and mailing address of the committee filing the report and the full name,

mailing address and telephone number of the committee's treasurer and deputy treasurer if the committee has named a deputy treasurer;

(2) The amount of money, including cash on hand at the beginning of the reporting period;

(3) Receipts for the period, including:

(a) Total amount of all monetary contributions received which can be identified in the committee's records by name and address of each contributor. In addition, the candidate committee shall make a reasonable effort to obtain and report the employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received one or more contributions which in the aggregate total in excess of one hundred dollars and shall make a reasonable effort to obtain and report a description of any contractual relationship over five hundred dollars between the contributor and the state if the candidate is seeking election to a state office or between the contributor and any political subdivision of the state if the candidate is seeking election to another political subdivision of the state;

(b) Total amount of all anonymous contributions accepted;

(c) Total amount of all monetary contributions received through fund-raising events or activities from participants whose names and addresses were not obtained with such contributions, with an attached statement or copy of the statement describing each fund-raising event as required in subsection 6 of section 130.031;

(d) Total dollar value of all in-kind contributions received;

(e) A separate listing by name and address and employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received contributions, in money or any other thing of value, aggregating more than one hundred dollars, together with the date and amount of each such contribution;

(f) A listing of each loan received by name and address of the lender and date and amount of the loan. For each loan of more than one hundred dollars, a separate statement shall be attached setting forth the name and address of the lender and each person liable directly, indirectly or contingently, and the date, amount and terms of the loan;

(4) Expenditures for the period, including:

(a) The total dollar amount of expenditures made by check drawn on the committee's depository;

(b) The total dollar amount of expenditures made in cash;

(c) The total dollar value of all in-kind expenditures made;

(d) The full name and mailing address of each person to whom an expenditure of money or any other thing of value in the amount of more than one hundred dollars has been made, contracted for or incurred, together with the date, amount and purpose of each expenditure. Expenditures of one hundred dollars or less may be grouped and listed by categories of expenditure showing the total dollar amount of expenditures in each category, except that the report shall contain an itemized listing of each payment made to campaign workers by name, address, date, amount and purpose of each payment and the aggregate amount paid to each such worker;

(e) A list of each loan made, by name and mailing address of the person receiving the loan, together with the amount, terms and date;

(5) The total amount of cash on hand as of the closing date of the reporting period covered, including amounts in depository accounts and in petty cash fund;

(6) The total amount of outstanding indebtedness as of the closing date of the reporting period covered;

(7) The amount of expenditures for or against a candidate or ballot measure during the period covered and the cumulative amount of expenditures for or against that candidate or ballot measure, with each candidate being listed by name, mailing address and office sought. For the purpose of disclosure reports, expenditures made in support of more than one candidate or ballot measure or both shall be apportioned reasonably among the candidates or ballot measure or both. In apportioning expenditures to each candidate or ballot measure, political party committees and

[continuing] **political action** committees need not include expenditures for maintaining a permanent office, such as expenditures for salaries of regular staff, office facilities and equipment or other expenditures not designed to support or oppose any particular candidates or ballot measures; however, all such expenditures shall be listed pursuant to subdivision (4) of this subsection;

(8) A separate listing by full name and address of any committee including a candidate committee controlled by the same candidate for which a transfer of funds or a contribution in any amount has been made during the reporting period, together with the date and amount of each such transfer or contribution;

(9) A separate listing by full name and address of any committee, including a candidate committee controlled by the same candidate from which a transfer of funds or a contribution in any amount has been received during the reporting period, together with the date and amount of each such transfer or contribution;

(10) Each committee that receives a contribution which is restricted or designated in whole or in part by the contributor for transfer to a particular candidate, committee or other person shall include a statement of the name and address of that contributor in the next disclosure report required to be filed after receipt of such contribution, together with the date and amount of any such contribution which was so restricted or designated by that contributor, together with the name of the particular candidate or committee to whom such contribution was so designated or restricted by that contributor and the date and amount of such contribution.

2. For the purpose of this section and any other section in this chapter except sections 130.049 and 130.050 which requires a listing of each contributor who has contributed a specified amount, the aggregate amount shall be computed by adding all contributions received from any one person during the following periods:

(1) In the case of a candidate committee, the period shall begin on the date on which the candidate became a candidate according to the definition of the term "candidate" in section 130.011 and end at 11:59 p.m. on the day of the primary election, if the candidate has such an election or at 11:59 p.m. on the day of the general election. If the candidate has a general election held after a primary election, the next aggregating period shall begin at 12:00 midnight on the day after the primary election day and shall close at 11:59 p.m. on the day of the general election. Except that for contributions received during the thirty-day period immediately following a primary election, the candidate shall designate whether such contribution is received as a primary election contribution or a general election contribution;

(2) In the case of a campaign committee, the period shall begin on the date the committee received its first contribution and end on the closing date for the period for which the report or statement is required;

(3) In the case of a political party committee or a [continuing] **political action** committee, the period shall begin on the first day of January of the year in which the report or statement is being filed and end on the closing date for the period for which the report or statement is required; except, if the report or statement is required to be filed prior to the first day of July in any given year, the period shall begin on the first day of July of the preceding year.

3. The disclosure report shall be signed and attested by the committee treasurer or deputy treasurer and by the candidate in case of a candidate committee.

4. The words "consulting or consulting services, fees, or expenses", or similar words, shall not be used to describe the purpose of a payment as required in this section. The reporting of any payment to such an independent contractor shall be on a form supplied by the appropriate officer, established by the ethics commission and shall include identification of the specific service or services provided including, but not limited to, public opinion polling, research on issues or opposition background, print or broadcast media production, print or broadcast media purchase, computer programming or data entry, direct mail production, postage, rent, utilities, phone solicitation, or fund raising, and the dollar amount prorated for each service.

130.044. CERTAIN CONTRIBUTIONS TO BE REPORTED WITHIN FORTY-EIGHT HOURS OF RECEIPT — ELECTRONIC REPORTING, WHEN — RULEMAKING AUTHORITY. — 1. All individuals and committees required to file disclosure reports under section 130.041 shall electronically report any contribution by any single contributor which exceeds five thousand dollars to the Missouri ethics commission within forty-eight hours of receiving the contribution. [Such]

2. Any individual currently holding office as a state representative, state senator, or any candidate for such office or such individual's campaign committee shall electronically report any contribution exceeding five hundred dollars made by any contributor to his or her campaign committee during the regular legislative session of the general assembly, within forty-eight hours of receiving the contribution.

3. Any individual currently holding office as the governor, lieutenant governor, treasurer, attorney general, secretary of state or auditor or any candidate for such office or such person's campaign committee shall electronically report any contribution exceeding five hundred dollars made by any contributor to his or her campaign committee during the regular legislative session or any time when legislation from the regular legislative session awaits gubernatorial action, within forty-eight hours of receiving the contribution.

4. Reports required under this section shall contain the same content required under section 130.041 and shall be filed in accordance with the standards established by the commission for electronic filing and other rules the commission may deem necessary to promulgate for the effective administration of this section.

[2.] 5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

130.046. TIMES FOR FILING OF DISCLOSURE — PERIODS COVERED BY REPORTS — CERTAIN DISCLOSURE REPORTS NOT REQUIRED — SUPPLEMENTAL REPORTS, WHEN — CERTAIN DISCLOSURE REPORTS FILED ELECTRONICALLY — RULEMAKING AUTHORITY. — 1. The disclosure reports required by section 130.041 for all committees shall be filed at the following times and for the following periods:

(1) Not later than the eighth day before an election for the period closing on the twelfth day before the election if the committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure;

(2) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election, if the committee has made any contribution or expenditure either in support of or opposition to any candidate or ballot measure; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

(3) Not later than the fifteenth day following the close of each calendar quarter. Notwithstanding the provisions of this subsection, if any committee accepts contributions or makes expenditures in support of or in opposition to a ballot measure or a candidate, and the report required by this subsection for the most recent calendar quarter is filed prior to the fortieth day before the election on the measure or candidate, the committee shall file an additional

disclosure report not later than the fortieth day before the election for the period closing on the forty-fifth day before the election.

2. In the case of a ballot measure to be qualified to be on the ballot by initiative petition or referendum petition, or a recall petition seeking to remove an incumbent from office, disclosure reports relating to the time for filing such petitions shall be made as follows:

(1) In addition to the disclosure reports required to be filed pursuant to subsection 1 of this section the treasurer of a committee, other than a [continuing] **political action** committee, supporting or opposing a petition effort to qualify a measure to appear on the ballot or to remove an incumbent from office shall file an initial disclosure report fifteen days after the committee begins the process of raising or spending money. After such initial report, the committee shall file quarterly disclosure reports as required by subdivision (3) of subsection 1 of this section until such time as the reports required by subdivisions (1) and (2) of subsection 1 of this section are to be filed. In addition the committee shall file a second disclosure report no later than the fifteenth day after the deadline date for submitting such petition. The period covered in the initial report shall begin on the day the committee first accepted contributions or made expenditures to support or oppose the petition effort for qualification of the measure and shall close on the fifth day prior to the date of the report;

(2) If the measure has qualified to be on the ballot in an election and if a committee subject to the requirements of subdivision (1) of this subsection is also required to file a preelection disclosure report for such election any time within thirty days after the date on which disclosure reports are required to be filed in accordance with subdivision (1) of this subsection, the treasurer of such committee shall not be required to file the report required by subdivision (1) of this subsection, but shall include in the committee's preelection report all information which would otherwise have been required by subdivision (1) of this subsection.

3. The candidate, if applicable, treasurer or deputy treasurer of a committee shall file disclosure reports pursuant to this section, except for any calendar quarter in which the contributions received by the committee or the expenditures or contributions made by the committee do not exceed five hundred dollars. The reporting dates and periods covered for such quarterly reports shall not be later than the fifteenth day of January, April, July and October for periods closing on the thirty-first day of December, the thirty-first day of March, the thirtieth day of June and the thirtieth day of September. No candidate, treasurer or deputy treasurer shall be required to file the quarterly disclosure report required not later than the fifteenth day of any January immediately following a November election, provided that such candidate, treasurer or deputy treasurer shall file the information required on such quarterly report on the quarterly report to be filed not later than the fifteenth day of April immediately following such November election. Each report by such committee shall be cumulative from the date of the last report. In the case of the [continuing] **political action** committee's first report, the report shall be cumulative from the date of the [continuing] **political action** committee's organization. Every candidate, treasurer or deputy treasurer shall file, at a minimum, the campaign disclosure reports covering the quarter immediately preceding the date of the election and those required by subdivisions (1) and (2) of subsection 1 of this section. A [continuing] **political action** committee shall submit additional reports if it makes aggregate expenditures, other than contributions to a committee, of five hundred dollars or more, within the reporting period at the following times for the following periods:

(1) Not later than the eighth day before an election for the period closing on the twelfth day before the election;

(2) Not later than twenty-four hours after aggregate expenditures of two hundred fifty dollars or more are made after the twelfth day before the election; and

(3) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election.

4. The reports required to be filed no later than the thirtieth day after an election and any subsequently required report shall be cumulative so as to reflect the total receipts and

disbursements of the reporting committee for the entire election campaign in question. The period covered by each disclosure report shall begin on the day after the closing date of the most recent disclosure report filed and end on the closing date for the period covered. If the committee has not previously filed a disclosure report, the period covered begins on the date the committee was formed; except that in the case of a candidate committee, the period covered begins on the date the candidate became a candidate according to the definition of the term candidate in section 130.011.

5. Notwithstanding any other provisions of this chapter to the contrary:

(1) Certain disclosure reports pertaining to any candidate who receives nomination in a primary election and thereby seeks election in the immediately succeeding general election shall not be required in the following cases:

(a) If there are less than fifty days between a primary election and the immediately succeeding general election, the disclosure report required to be filed quarterly; provided that, any other report required to be filed prior to the primary election and all other reports required to be filed not later than the eighth day before the general election are filed no later than the final dates for filing such reports;

(b) If there are less than eighty-five days between a primary election and the immediately succeeding general election, the disclosure report required to be filed not later than the thirtieth day after the primary election need not be filed; provided that any report required to be filed prior to the primary election and any other report required to be filed prior to the general election are filed no later than the final dates for filing such reports; and

(2) No disclosure report needs to be filed for any reporting period if during that reporting period the committee has neither received contributions aggregating more than five hundred dollars nor made expenditure aggregating more than five hundred dollars and has not received contributions aggregating more than three hundred dollars from any single contributor and if the committee's treasurer files a statement with the appropriate officer that the committee has not exceeded the identified thresholds in the reporting period. Any contributions received or expenditures made which are not reported because this statement is filed in lieu of a disclosure report shall be included in the next disclosure report filed by the committee. This statement shall not be filed in lieu of the report for two or more consecutive disclosure periods if either the contributions received or expenditures made in the aggregate during those reporting periods exceed five hundred dollars. This statement shall not be filed, in lieu of the report, later than the thirtieth day after an election if that report would show a deficit of more than one thousand dollars.

6. (1) If the disclosure report required to be filed by a committee not later than the thirtieth day after an election shows a deficit of unpaid loans and other outstanding obligations in excess of five thousand dollars, semiannual supplemental disclosure reports shall be filed with the appropriate officer for each succeeding semiannual period until the deficit is reported in a disclosure report as being reduced to five thousand dollars or less; except that, a supplemental semiannual report shall not be required for any semiannual period which includes the closing date for the reporting period covered in any regular disclosure report which the committee is required to file in connection with an election. The reporting dates and periods covered for semiannual reports shall be not later than the fifteenth day of January and July for periods closing on the thirty-first day of December and the thirtieth day of June.

(2) Committees required to file reports pursuant to subsection 2 or 3 of this section which are not otherwise required to file disclosure reports for an election shall file semiannual reports as required by this subsection if their last required disclosure report shows a total of unpaid loans and other outstanding obligations in excess of five thousand dollars.

7. In the case of a committee which disbands and is required to file a termination statement pursuant to the provisions of section 130.021 with the appropriate officer not later than the tenth day after the committee was dissolved, the candidate, committee treasurer or deputy treasurer shall attach to the termination statement a complete disclosure report for the period closing on

the date of dissolution. A committee shall not utilize the provisions of subsection 8 of section 130.021 or the provisions of this subsection to circumvent or otherwise avoid the reporting requirements of subsection 6 or 7 of this section.

8. Disclosure reports shall be filed with the appropriate officer not later than 5:00 p.m. prevailing local time of the day designated for the filing of the report and a report postmarked not later than midnight of the day previous to the day designated for filing the report shall be deemed to have been filed in a timely manner. The appropriate officer may establish a policy whereby disclosure reports may be filed by facsimile transmission.

9. Each candidate for the office of state representative, state senator, and for statewide elected office shall file all disclosure reports described in section 130.041 electronically with the Missouri ethics commission. The Missouri ethics commission shall promulgate rules establishing the standard for electronic filings with the commission and shall propose such rules for the importation of files to the reporting program.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

130.057. CAMPAIGN FINANCE ELECTRONIC REPORTING SYSTEM, ESTABLISHMENT, USE OF — CERTAIN CANDIDATES AND COMMITTEES TO FILE IN ELECTRONIC FORMAT, WHEN, FEES TO CONVERT PAPER COPY — PURCHASE OF ELECTRONIC SYSTEM, REQUIREMENTS — PUBLIC ACCESS. — 1. In order for candidates for election and public officials to more easily file reports required by law and to access information contained in such reports, and for the Missouri ethics commission to receive and store reports in an efficient and economical method, and for the general public and news media to access information contained in such reports, the commission shall establish and maintain an electronic reporting system pursuant to this section.

2. The ethics commission may establish for elections in 1996 and shall establish for elections and all required reporting beginning in 1998 and maintain thereafter a state campaign finance and financial interest disclosure electronic reporting system pursuant to this section for all candidates required to file. The system may be used for the collection, filing and dissemination of all reports, including monthly lobbying reports filed by law, and all reports filed with the commission pursuant to this chapter and chapter 105, RSMo. The system may be established and used for all reports required to be filed for the primary and general elections in 1996 and all elections thereafter, except that the system may require maintenance of a paper backup system for the primary and general elections in 1996. The reports shall be maintained and secured in the electronic format by the commission.

3. When the commission determines that the electronic reporting system has been properly implemented, the commission shall certify to all candidates and committees required to file pursuant to this chapter that such electronic reporting system has been established and implemented. Beginning with the primary and general elections in 2000, or the next primary or general election in which the commission has made certification pursuant to this subsection, whichever is later, candidates and all other committees shall file reports by using either the electronic format prescribed by the commission or paper forms provided by the commission for that purpose. [Continuing] **Political action** committees shall file reports by electronic format prescribed by the commission, except [continuing] **political action** committees which make contributions equal to or less than fifteen thousand dollars in the applicable calendar year. Any [continuing] **political action** committee which makes contributions in support of or opposition to any measure or candidate equal to or less than fifteen thousand dollars in the applicable

calendar year shall file reports on paper forms provided by the commission for that purpose or by electronic format prescribed by the commission, whichever reporting method the [continuing] **political action** committee chooses. The commission shall supply a computer program which shall be used for filing by modem or by a common magnetic media chosen by the commission. In the event that filings are performed electronically, the candidate shall file a signed original written copy within five working days; except that, if a means becomes available which will allow a verifiable electronic signature, the commission may also accept this in lieu of a written statement.

4. Beginning January 1, 2000, or on the date the commission makes the certification pursuant to subsection 3 of this section, whichever is later, all reports filed with the commission by any candidate for a statewide office, or such candidate's committee, shall be filed in electronic format as prescribed by the commission; provided however, that if a candidate for statewide office, or such candidate's committee receives or spends five thousand dollars or less for any reporting period, the report for that reporting period shall not be required to be filed electronically.

5. A copy of all reports filed in the state campaign finance electronic reporting system shall be placed on a public electronic access system so that the general public may have open access to the reports filed pursuant to this section. The access system shall be organized and maintained in such a manner to allow an individual to obtain information concerning all contributions made to or on behalf of, and all expenditures made on behalf of, any public official described in subsection 2 of this section in formats that will include both written and electronically readable formats.

6. All records that are in electronic format, not otherwise closed by law, shall be available in electronic format to the public. The commission shall maintain and provide for public inspection, a listing of all reports with a complete description for each field contained on the report, that has been used to extract information from their database files. The commission shall develop a report or reports which contain every field in each database.

7. Annually, the commission shall provide, without cost, a system-wide dump of information contained in the commission's electronic database files to the general assembly. The information is to be copied onto a medium specified by the general assembly. Such information shall not contain records otherwise closed by law. It is the intent of the general assembly to provide open access to the commission's records. The commission shall make every reasonable effort to comply with requests for information and shall take a liberal interpretation when considering such requests.

130.071. CANDIDATE NOT TO TAKE OFFICE OR FILE FOR SUBSEQUENT ELECTIONS UNTIL DISCLOSURE REPORTS ARE FILED. — 1. If a successful candidate, or the treasurer of his candidate committee, **or the successful candidate who also has served as a treasurer or deputy treasurer of any committee defined by section 130.011** fails to file the [disclosure] reports which are required by this chapter, the candidate shall not take office until such reports are filed **and all fees assessed by the commission are paid**.

2. In addition to any other penalties provided by law, no person may file for any office in a subsequent election until he or the treasurer of his existing candidate **or any committee defined by section 130.011 in which he is a treasurer or deputy treasurer** has filed all required campaign disclosure reports for all prior elections **and paid all fees assessed by the commission**.

226.033. PROHIBITED ACTS BY CERTAIN COMMISSIONERS. — Any commissioner appointed or reappointed after March 1, 2004, shall not:

(1) Host or manage a political fund-raiser or solicit funds for any candidate who is seeking a statewide or nationally elected office;

(2) Serve on the board or chair any political action committee, **or** political party committee[, or continuing committee].

575.021. OBSTRUCTION OF AN ETHICS INVESTIGATION, DEFENSES, PENALTY. — 1. A person commits the crime of obstruction of an ethics investigation if such person, for the purpose of obstructing or preventing an ethics investigation, knowingly commits any of the following acts:

(1) Confers or agrees to confer anything of pecuniary benefit to any person in direct exchange for that person's concealing or withholding any information concerning any violation of sections 105.450 to 105.496 and chapter 130;

(2) Accepting or agreeing to accept anything of pecuniary benefit in direct exchange for concealing or withholding any information concerning any violation of sections 105.450 to 105.496 or chapter 130;

(3) Utters or submits a false statement that the person does not believe to be true to any member or employee of the Missouri ethics commission or to any official investigating any violation of sections 105.450 to 105.496 or chapter 130; or

(4) Submits any writing or other documentation that is inaccurate and that the person does not believe to be true to any member or employee of the Missouri ethics commission or to any official investigating any violation of sections 105.450 to 105.496 or chapter 130.

2. It is a defense to a prosecution under subdivisions (3) and (4) of subsection 1 of this section that the person retracted the false statement, writing, or other documentation, but this defense shall not apply if the retraction was made after:

(1) The falsity of the statement, writing, or other documentation was exposed; or

(2) Any member or employee of the Missouri ethics commission or any official investigating any violation of sections 105.450 to 105.496 or chapter 130 took substantial action in reliance on the statement, writing, or other documentation.

3. The defendant shall have the burden of injecting the issue of retraction under this section.

4. Obstruction of an ethics investigation under this section is a class A misdemeanor.

Approved July 14, 2010

SB 851 [HCS SB 851]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires at least four days notice before voting by governing bodies of local governments on tax increases, eminent domain, and certain districts and projects

AN ACT to amend chapter 67, RSMo, by adding thereto one new section relating to public notice required for certain meetings of political subdivisions.

SECTION

A. Enacting clause.

67.2725. Notice required for public meeting on tax increases, eminent domain, creation of certain districts, and certain redevelopment plans.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.2725, to read as follows:

67.2725. NOTICE REQUIRED FOR PUBLIC MEETING ON TAX INCREASES, EMINENT DOMAIN, CREATION OF CERTAIN DISTRICTS, AND CERTAIN REDEVELOPMENT PLANS. — For any public meeting where a vote of the governing body is required to implement a tax increase, or with respect to a retail development project when the governing body votes to utilize the power of eminent domain, create a transportation development district or a community improvement district, or approve a redevelopment plan that pledges public funds as financing for the project or plan, the governing body of any county, city, town, or village, or any entity created by such county, city, town, or village, shall give notice conforming with all the requirements of subsection 1 of section 610.020 at least four days before such entity may vote on such issues, exclusive of weekends and holidays when the facility is closed; provided that this section shall not apply to any votes or discussion related to proposed ordinances which require a minimum of two separate readings on different days for their passage. The provisions of subsection 4 of section 610.020 shall not apply to any matters that are subject to the provisions of this section. No vote shall occur until after a public meeting on the matter at which parties in interest and citizens shall have an opportunity to be heard. If the notice required under this section is not properly given, no vote on such issues shall be held until proper notice has been provided under this section. Any legal action challenging the notice requirements provided herein shall be filed within thirty days of the subject meeting, or such meeting shall be deemed to have been properly noticed and held. For the purpose of this section, a tax increase shall not include the setting of the annual tax rates provided for under sections 67.110 and 137.055.

Approved July 13, 2010

SB 884 [SS SCS SB 884]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various provisions of the Tobacco Master Settlement Agreement

AN ACT to amend chapter 196, RSMo, by adding thereto six new sections relating to the tobacco master settlement agreement, with penalty provisions and an emergency clause.

SECTION

- A. Enacting clause.
- 196.1020. Definitions.
- 196.1023. Certification, compliance with tobacco master settlement agreement required — directory listing.
- 196.1026. Nonresident or foreign nonparticipating manufacturers, requirements.
- 196.1029. Quarterly reports required, contents — disclosure to attorney general, when — escrow fund required, when — additional information may be required, when.
- 196.1032. Remedies for violations — distribution of cigarettes prohibited, when — violations, penalty.
- 196.1035. Judicial review of director's decision not to list — compliance agreement required — rulemaking authority.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 196, RSMo, is amended by adding thereto six new sections enacted in lieu thereof, to be known as sections 196.1020, 196.1023, 196.1026, 196.1029, 196.1032, and 196.1035, to read as follows:

196.1020. DEFINITIONS. — As used in sections 196.1020 to 196.1035, the following terms mean:

- (1) "Brand family", all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to "menthol", "lights", "kings", and "100s", and includes any brand name alone or in conjunction with any other word trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;
- (2) "Cigarette", the same meaning as such term is defined in section 196.1000;
- (3) "Director", the director of the Missouri department of revenue;
- (4) "Master settlement agreement", the same meaning as such term is defined in section 196.1000;
- (5) "Nonparticipating manufacturer", any tobacco product manufacturer that is not a participating manufacturer;
- (6) "Participating manufacturer", the same meaning as such term is defined in section II(jj) of the master settlement agreement and all amendments thereto;
- (7) "Qualified escrow fund", the same meaning as such term is defined in section 196.1000;
- (8) "Stamping agent", a person who is authorized to affix tax stamps to packages or other containers or cigarettes under chapter 149 or any person who is required to pay the tax imposed under section 149.160 on other tobacco products;
- (9) "Tobacco product manufacturer", the same meaning as such term is defined in section 196.1000;
- (10) "Units sold", the same meaning as such term is defined in section 196.1000.

196.1023. CERTIFICATION, COMPLIANCE WITH TOBACCO MASTER SETTLEMENT AGREEMENT REQUIRED — DIRECTORY LISTING. — 1. Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the director a certification to the director no later than the thirtieth day of April each year certifying, under penalty of perjury, that as of the date of such certification such tobacco product manufacturer is a participating manufacturer or is in full compliance with section 196.1003.

(1) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the director.

(2) A nonparticipating manufacturer shall include in its certification:

(a) A list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year;

(b) A list of all of its brand families that have been sold in the state at any time during the current calendar year, which shall indicate, by an asterisk, any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification; and

(c) The name and address of any other manufacturer of such brand families in the preceding or current calendar year.

The nonparticipating manufacturer shall update such list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the director.

(3) For a nonparticipating manufacturer, such certification shall further certify:

(a) That such nonparticipating manufacturer is registered to do business in the state or has appointed a resident agent for service of process and provided notice thereof as required in this subsection;

(b) That such nonparticipating manufacturer has established, and continues to maintain, a qualified escrow fund and has executed a qualified escrow agreement, governing the qualified escrow fund, which has been reviewed and approved by the director;

(c) That such nonparticipating manufacturer is in full compliance with sections 196.1003 and 196.1020 to 196.1035 and any rules promulgated thereunder;

(d) The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established such qualified escrow fund required under section 196.1003 and all rules promulgated thereunder;

(e) The account number of such qualified escrow fund and any subaccount number for the state;

(f) The amount such nonparticipating manufacturer placed in such fund for cigarettes sold in the state during the preceding calendar year;

(g) The date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the director to confirm the foregoing; and

(h) The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made, at any time, from such fund or from any other qualified escrow fund into which it ever made escrow payments under section 196.1003 and all rules promulgated thereunder.

(4) A tobacco product manufacturer shall not include a brand family in its certification unless:

(a) In the case of a participating manufacturer, such participating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined under the master settlement agreement; and

(b) In the case of a nonparticipating manufacturer, such nonparticipating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of section 196.1003. Nothing in this section shall be construed as limiting, or otherwise affecting, the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of section 196.1003.

(5) Tobacco product manufacturers shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five years, unless otherwise required by law to maintain them for a greater period of time.

2. On or after January 1, 2011, the director shall issue, maintain, update when necessary but only on the first calendar day of each month, make available for public inspection and publish on its website a directory listing of all tobacco product manufacturers that have provided current and accurate certifications in compliance with the requirements of subsection 1 of this section and all brand families listed in such certifications, except:

(1) The director shall not include, or retain, in such directory the name or brand families of any nonparticipating manufacturer that fails to provide the required certification, or whose certification the director determines is not in compliance with subdivisions (2) and (3) of subsection 1 of this section, unless the director has determined that such violation has been cured to the satisfaction of the director;

(2) Neither a tobacco product manufacturer, nor brand family shall be included, or retained, in the directory if the director concludes, in the case of a nonparticipating manufacturer that:

(a) Any escrow payment required under section 196.1003 for any period, for any brand family, whether or not listed by such nonparticipating manufacturer has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement approved by the director; or

(b) Any outstanding final judgment, including interest thereon, for violations of section 196.1003 has not been fully satisfied for such brand family and such manufacturer;

(3) Every stamping agent shall provide, and update as necessary, an electronic mail address to the director for the purpose of receiving any notifications that may be required by sections 196.1020 to 196.1035.

3. (1) The directory issued and updated in subsection 2 of this section shall become effective immediately but only as it applies to tobacco product manufacturers, and it shall be unlawful for any tobacco wholesaler or retailer to purchase from any tobacco product manufacturer, any cigarette, or brand family not listed in the directory.

(2) The directory issued in subsection 2 of this section shall become effective on the first day of the month following the month in which said directory is published or updated as it applies to tobacco wholesalers, and on the fifteenth day of the month following the month in which said directory is published or updated as it applies to tobacco retailers in order to allow wholesalers and retailers sufficient time to sell their inventory.

(3) Unless otherwise permitted herein, it shall be unlawful for any person to:

(a) Affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; or

(b) Sell, offer, or possess for sale in this state, or import for personal consumption in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory.

196.1026. NONRESIDENT OR FOREIGN NONPARTICIPATING MANUFACTURERS, REQUIREMENTS. — 1. Any nonresident or foreign nonparticipating manufacturer not registered to do business in this state as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory, appoint, and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process shall be served, and any action or proceeding against it concerning, or arising out of, the enforcement of sections 196.1003 and 196.1020 to 196.1035 may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of such agent to the satisfaction of the director.

2. The nonparticipating manufacturer shall provide notice to the director thirty calendar days prior to termination of the authority of an agent and shall further provide proof, to the satisfaction of the director, of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the director of the termination within five calendar days and shall include proof, to the satisfaction of the director, of the appointment of a new agent.

3. Any nonparticipating manufacturer whose cigarettes are sold in this state and who has not appointed and engaged an agent as herein required shall be deemed to have appointed the secretary of state as such agent and may be proceeded against in courts of this state by service of process upon the secretary of state. However, the appointment of the secretary of state as such agent shall not satisfy the condition precedent for having the brand families of the nonparticipating manufacturer included, or retained, in the directory.

196.1029. QUARTERLY REPORTS REQUIRED, CONTENTS — DISCLOSURE TO ATTORNEY GENERAL, WHEN — ESCROW FUND REQUIRED, WHEN — ADDITIONAL INFORMATION MAY BE REQUIRED, WHEN. — 1. Not later than twenty days after the end of each calendar quarter and more frequently if so directed by the director, each stamping agent shall submit such information as the director requires to facilitate compliance with sections 196.1020 to 196.1035, including but not limited to:

- (1) A list by brand family of the total number of cigarettes; or
- (2) In the case of roll your own, the equivalent stick count for which the stamping agent affixed stamps during the previous calendar quarter or otherwise paid the tax due for such cigarettes. The stamping agent shall maintain and make available to the director all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the director for a period of five years.

2. The director shall disclose to the attorney general any information received under sections 196.1020 to 196.1035 which is requested by the attorney general for purposes of determining compliance with and enforcing the provisions of sections 196.1020 to 196.1035. The director and attorney general shall share with each other information received under sections 196.1003 and 196.1020 to 196.1035, or corresponding laws of other states.

3. The director may, at any time, require, from the nonparticipating manufacturer proof from the financial institution, in which such manufacturer has established a qualified escrow fund for the purpose of compliance with section 196.1003, of the amount of money in such fund exclusive of interest, and the amount and date of each deposit to such fund, and the amount and date of each withdrawal from such fund.

4. In addition to any other information required to be submitted under sections 196.1020 to 196.1035, the director may require a stamping agent or tobacco product manufacturer to submit any additional information, including but not limited to samples of the packaging or labeling of each brand family, as is necessary to enable the director to determine whether a tobacco product manufacturer is in compliance with sections 196.1020 to 196.1035.

196.1032. REMEDIES FOR VIOLATIONS — DISTRIBUTION OF CIGARETTES PROHIBITED, WHEN — VIOLATIONS, PENALTY. — 1. In addition to, or in lieu of, any other civil or criminal remedy provided by law, upon a determination that a stamping agent or any person has violated subsection 3 of section 196.1023 or any regulation adopted under subsection 3 of section 196.1023, the director may revoke or suspend the license of any stamping agent in the manner provided in subsection 3 of section 149.035. Each stamp affixed and each sale, or offer to sell, cigarettes in violation of subsection 3 of section 196.1023 shall constitute a separate violation. Upon a determination of a violation of subsection 3 of section 196.1023 or any regulations adopted thereunder, the director may impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or five thousand dollars for each such violation.

2. Any cigarettes deemed by a court of competent jurisdiction to have been sold, offered for sale, or possessed for sale in this state in violation of subsection 3 of section 196.1023 shall be contraband and such cigarettes shall be subject to seizure and forfeiture as provided in chapter 149 and all such cigarettes so seized and forfeited shall be destroyed and not resold.

3. The attorney general, on behalf of the director, may seek an injunction to restrain a threatened or actual violation of subsection 3 of section 196.1023, or subsection 1 or 4 of section 196.1029 by a stamping agent and to compel a stamping agent to comply with such provisions. In any successful action brought under this section, the state may be entitled to recover the costs of investigation and action including reasonable attorney fees.

4. It shall be unlawful for a person to sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported, cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of subsection 3 of section 196.1023. A violation of this subsection shall be a class A misdemeanor.

5. A person who violates subsection 3 of section 196.1023 shall be deemed to have engaged in an unfair practice in violation of section 407.020.

196.1035. JUDICIAL REVIEW OF DIRECTOR'S DECISION NOT TO LIST — COMPLIANCE AGREEMENT REQUIRED—RULEMAKING AUTHORITY. — 1. A determination of the director not to list, or to remove from the directory, a brand family or tobacco product manufacturer shall be subject to review by a court of competent jurisdiction.

2. No person shall be issued, or granted a renewal of, a license under chapter 149 unless such person has certified, in writing and under the penalty of perjury, that such person will comply fully with sections 196.1020 to 196.1035.

3. For the calendar year 2010, if the effective date of sections 196.1020 to 196.1035 is later than March 16, 2010:

(1) The first report of stamping agents required in subsection 1 of section 196.1029 shall be due thirty calendar days after such effective date;

(2) The certification by a tobacco product manufacturer described in subsection 1 of section 196.1023 shall be due forty-five calendar days after such effective date; and

(3) The directory described in subsection 2 of section 196.1023 shall be published, or made available, within one hundred thirty-five calendar days after such effective date.

4. The director may promulgate rules necessary to effect the purpose of sections 196.1020 to 196.1035. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

5. There is hereby created in the state treasury the "Tobacco Control Special Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

6. If a court of competent jurisdiction determines that a person has violated sections 196.1020 to 196.1035, such court shall order any profits, gains, gross receipts, or other benefits from such violation be disgorged and paid to the state treasurer for deposit in the "Tobacco Control Special Fund". Unless otherwise expressly provided, the remedies or penalties provided by sections 196.1020 to 196.1035 are cumulative to each other and to the remedies or penalties available under all other laws of this state.

7. If a court of competent jurisdiction finds that the provisions of sections 196.1003 and 196.1020 to 196.1035 conflict and cannot be harmonized, the provisions of section 196.1003 shall control. If any section or portion of a section in sections 196.1020 to 196.1035 causes section 196.1003 to no longer constitute a qualifying or model statute, as those terms are defined in the master settlement agreement, that portion of sections 196.1020 to 196.1035 shall be invalid.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the economic welfare of the citizens of this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2010

SB 928 [SS SB 928]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions of law regarding the sales tax treatment of sales for resale

AN ACT to repeal section 144.030, RSMo, and to enact in lieu thereof two new sections relating to the sales tax treatment of sales for resale, with an emergency clause.

SECTION

- A. Enacting clause.
- 144.018. Resale of tangible personal property, exempt or excluded from sales and use tax, when — intent of exclusion.
- 144.030. Exemptions from state and local sales and use taxes.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 144.030, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 144.018 and 144.030, to read as follows:

144.018. RE SALE OF TANGIBLE PERSONAL PROPERTY, EXEMPT OR EXCLUDED FROM SALES AND USE TAX, WHEN — INTENT OF EXCLUSION. — 1. Notwithstanding any other provision of law to the contrary, except as provided under subsections 2 or 3 of this section, when a purchase of tangible personal property or service subject to tax is made for the purpose of resale, such purchase shall be either exempt or excluded under this chapter if the subsequent sale is:

- (1) Subject to a tax in this or any other state;
- (2) For resale;
- (3) Excluded from tax under this chapter;
- (4) Subject to tax but exempt under this chapter; or
- (5) Exempt from the sales tax laws of another state, if the subsequent sale is in such other state.

The purchase of tangible personal property by a taxpayer shall not be deemed to be for resale if such property is used or consumed by the taxpayer in providing a service on which tax is not imposed by subsection 1 of section 144.020, except purchases made in fulfillment of any obligation under a defense contract with the United States government.

2. For purposes of subdivision (2) of subsection 1 of section 144.020, a place of amusement, entertainment or recreation, including games or athletic events, shall remit tax on the amount paid for admissions or seating accommodations, or fees paid to, or in such place of amusement, entertainment or recreation. Any subsequent sale of such admissions or seating accommodations shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such admissions or seating accommodations is exempt or excluded from payment of sales

and use taxes, the provisions of this subsection shall not require the place of amusement, entertainment, or recreation to remit tax on that sale.

3. For purposes of subdivision (6) of subsection 1 of section 144.020, a hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public shall remit tax on the amount of sales or charges for all rooms, meals, and drinks furnished at such hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public. Any subsequent sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such rooms, meals, or drinks is exempt or excluded from payment of sales and use taxes, the provisions of this subsection shall not require the hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public to remit tax on that sale.

4. The provisions of this section are intended to reject and abrogate earlier case law interpretations of the state's sales and use tax law with regard to sales for resale as extended in *Music City Centre Management, LLC v. Director of Revenue*, 295 S.W.3d 465, (Mo. 2009) and *ICC Management, Inc. v. Director of Revenue*, 290 S.W.3d 699, (Mo. 2009).

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick,

which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon

materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted

by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day

of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use

taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo;

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

(41) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar places of business for use in the normal course of business and money received by a shooting range or similar places of business from patrons and held by a shooting range or similar place of business for redistribution to patrons at the conclusion of a shooting event.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure the proper application of Missouri sales tax law with regard to sales for resale, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 12, 2010

SB 940 [HCS SB 940]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provision relating to bingo

AN ACT to repeal sections 313.005, 313.010, 313.015, 313.040, 313.045, 313.050, and 313.057, RSMo, and to enact in lieu thereof seven new sections relating to bingo, with penalty provisions.

SECTION

- A. Enacting clause.
- 313.005. Definitions.
- 313.010. Bingo, who may conduct game — joint license, procedure — abbreviated licenses, fees limitations, exemptions.
- 313.015. License— fee — expiration — special license, fairs, celebrations, requirements, fee, annual report, when.
- 313.040. Restrictions, penalties.
- 313.045. Annual reports by certain licensees — contents.
- 313.050. Records to be kept — retention period.
- 313.057. Suppliers license required, background checks required, exceptions to licensure, qualifications, fee — records — pull-tab cards, tax on — restrictions on use — failure to pay tax, penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 313.005, 313.010, 313.015, 313.040, 313.045, 313.050, and 313.057, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 313.005, 313.010, 313.015, 313.040, 313.045, 313.050, and 313.057, to read as follows:

313.005. DEFINITIONS. — As used in sections 313.005 to 313.080, the following terms shall mean:

(1) "Bingo", a game in which each participant receives one or more cards, including, but not limited to, pull-tab cards, marked off into twenty-five squares arranged on five horizontal rows of five squares each; or, one or more cards marked off into twenty-five squares arranged on five horizontal rows of five squares each which are not pull-tab cards and, in addition thereto, one or more pull-tab cards. Each square is designated by number, letter or by a combination of numbers and letters, except that the center square on the card shall be designated with the word "free". No two cards shall be identical. As the announcer of the game announces a number, letter or a combination of numbers and letters, each player covers the square corresponding to the announced number, letter or combination by marking such card in ink. The numbers, letters or combination of numbers and letters which are announced shall appear on an object selected by chance, either manually or mechanically, from a receptacle containing the objects bearing numbers, letters or combinations of numbers and letters. The winner of each game shall be the player or players who are first to properly cover a predetermined and announced pattern of squares upon the card or cards used by such player or players. A prize or prizes may be awarded to the winner or winners of a game;

(2) "Bingo card", an individual game face marked off into twenty-five squares arranged on five horizontal rows of five squares each, one or more of which may be contained on a bingo sheet;

(3) "Bingo card monitoring device", a technology aid which allows a bingo player to enter bingo numbers as they are announced at a bingo occasion and which marks or otherwise conceals those numbers on bingo cards which are electronically stored in and displayed on the device. A bingo card monitoring device shall not include any device into which currency, coin, tokens, or electronic funds transfer may be inserted or from which currency, coin, tokens, or any receipt for monetary value can be dispensed or which, once provided to a bingo player, is capable of communicating with any other bingo card monitoring device or any other form of electronic device or computer. A bingo card monitoring device shall only be permitted to monitor bingo games and not used for any games or themes;

(4) "Bingo equipment", all paraphernalia used to conduct a bingo game including selection equipment, number display boards, and bingo cards and faces and other such related equipment as may be defined by the rules and regulations of the commission. This definition does not include audio or video equipment which plays no part in the conduct of the game other than communicating the progress of the game or items used to mark numbers on the cards;

[(4)] (5) "Bingo sheet", a disposable piece of paper containing one or more bingo cards;

[(5)] (6) "Charitable organization", any organization which is organized and operated for the relief of poverty, distress, or other condition of public concern within this state or organized for financially supporting the activities of a charitable organization as hereinbefore defined. In order to qualify as a charitable organization, no part of the net earnings of the organization may inure to the benefit of any private shareholder or individual member of the organization. Charitable organizations must have obtained an exemption from the payment of federal income taxes as provided in section 501(c)(3) of the Internal Revenue Code of 1954, as amended;

[(6)] (7) "Commission", the Missouri gaming commission;

[(7)] (8) "Director", the director or other person in charge of the regulation of the game of bingo, as designated by the Missouri gaming commission;

[(8)] (9) "Fraternal organization", any organization within this state operating under the lodge system which exists for the common benefit, brotherhood or other interest of its members except college fraternities and sororities and of which no part of the net earnings inures to the benefit of any private shareholder or any individual member of such organization and which has been exempted from the payment of federal income tax as provided in section 501(c)(5), 501(c)(8), or 501(c)(10) Internal Revenue Code of 1954, as amended;

[(9)] (10) "Hall provider", a person or business entity which leases premises in which bingo games are conducted;

[(10)] (11) "Pull-tab card", any disposable card or ticket which accords a person an opportunity to win something of value by opening, pulling, detaching, or otherwise removing tabs from the card or ticket to reveal a set of numbers, letters, symbols, or configurations, or any combination thereof. The term "pull-tab card" shall include any card known as a pickle ticket, pickle, break-open, or pull-tab card;

[(11)] (12) "Religious organization", any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship and religious observances. Such an organization may be a society of individuals united for religious purposes at a definite place. In order to qualify as a religious organization, no part of the net earnings of the organization may inure to the benefit of any private shareholder or any individual member of such organization. Religious organizations shall maintain an established place of worship within this state and shall have a regular schedule of services or meetings at least on a weekly basis. Religious organizations must have obtained an exemption from the payment of federal income taxes as provided by section 501(c)(3) or section 501(d) of the Internal Revenue Code of 1954, as amended;

[(12)] (13) "Service organization", any organization commonly known as a civic club or county fair or other organization if such organization is a religious, charitable, fraternal, veteran or service organization as described in article III, section 39(a) of the Missouri Constitution and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization. Service organizations must have obtained an exemption from the payment of federal income taxes as provided in section 501(c)(4), 501(c)(5) or 501(c)(7) of the Internal Revenue Code of 1954, as amended;

[(13)] (14) "Supplier", a person or business entity that sells, markets or otherwise provides bingo equipment or supplies to any bona fide religious, charitable, fraternal, veteran or service organization;

[(14)] (15) "Veterans' organization", a post or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization:

(a) Organized in the United States or any of its possessions;

(b) In which at least seventy-five percent of the members of which are war veterans and substantially all of the other members of which are individuals who are veterans (but not war veterans) or are cadets, or are spouses, widows or widowers of war veterans of such individuals; and

(c) In which no part of the net earnings of which inures to the benefit of any private shareholder or individual and which has been exempted from payment of federal income taxes as provided by section 501(c)(19) of the Internal Revenue Code of 1954, as amended.

313.010. BINGO, WHO MAY CONDUCT GAME — JOINT LICENSE, PROCEDURE — ABBREVIATED LICENSES, FEES LIMITATIONS, EXEMPTIONS. — 1. Any bona fide religious, charitable, fraternal, veteran or service organization, which has been in existence for at least five years immediately prior to making an application for a license and which, during that period, has had twenty bona fide members, may conduct the game of bingo upon receiving a license from the commission. Any combination of unlicensed but eligible organizations, not to exceed five, may join in making an application and may receive a single license to conduct the game of bingo. Any information or report required by sections 313.005 to 313.080 from an organization shall contain the required information regarding all of the organizations joined in the license and all requirements under sections 313.005 to 313.080 shall apply with respect to all joined organizations and the membership thereof.

2. Notwithstanding any other provisions to the contrary, the commission shall require only an abbreviated license, pursuant to the provisions of section 313.020, and an abbreviated licensing fee of ten dollars per event, for any bona fide religious, charitable, fraternal, veteran or service organization which conducts a bingo game on not more than [four] **fifteen** occasions annually at which only pull-tab cards may be used. The organization shall have been in existence for at least five years immediately prior to the first occasion on which such organization conducts a bingo pull-tab game and during this period shall have had twenty bona fide members. For the purposes of this subsection, "occasion" means an event having a duration of less than twenty-four hours. An organization that has been granted an abbreviated license shall be exempt from the provisions of subdivisions (11) and (14) of section 313.040.

313.015. LICENSE — FEE — EXPIRATION — SPECIAL LICENSE, FAIRS, CELEBRATIONS, REQUIREMENTS, FEE, ANNUAL REPORT, WHEN. — 1. The commission shall issue a license for the conducting of bingo to any bona fide religious, charitable, fraternal, veteran or service organization or to any combination of eligible organizations, not to exceed five, which submits an application on a form prescribed by the director and which satisfies the director that such organization meets all of the requirements of sections 313.005 to 313.080. The burden of proof is at all times on the applicant to demonstrate by clear and convincing evidence its suitability to be licensed. Each license so issued shall expire at midnight one year from its date of issuance. The commission, in its sole discretion, may reopen licensure hearings for any licensee at any time.

2. An applicant may hold only one license and that license may not be transferred or assigned to any other organization other than the organization named in the license. Each licensed organization shall pay to the director an annual, nonrefundable license fee of fifty dollars]; provided, however, each licensed organization which awards to winners of bingo games prizes or merchandise having an aggregate retail value of five thousand dollars or less annually and less than one hundred dollars in any single day shall pay to the director an annual fee of ten dollars] to be paid into the state treasury to the credit of the gaming commission [bingo] fund. The director may, upon application made by a county fair organization or by any organization qualified to receive a regular license, issue a special license authorizing such organization to conduct bingo for the period of any fair, picnic, festival or celebration conducted by such qualified organization not exceeding one week and which is held not more than once annually, and a special licensee shall be exempt from the provisions of subdivisions (7) [and], (11), and

(14) of section 313.040. Each organization receiving a special license shall pay to the director a fee of twenty-five dollars, to be paid into the state treasury to the credit of the gaming commission [bingo] fund.

3. Any organization that obtains more than three special bingo licenses during any calendar year shall be required to file an annual report as required in section 313.045.

313.040. RESTRICTIONS, PENALTIES. — The conducting of bingo is subject to the following restrictions:

(1) (a) The entire net receipts over and above the actual cost of conducting the game shall be exclusively devoted to the lawful, charitable, religious or philanthropic purposes of the organization permitted to conduct that game and no receipts shall be used to compensate in any manner any person who works for or is in any way affiliated with the licensed organization. Any person who violates the provisions of this paragraph shall be guilty of a class D felony;

(b) Proceeds from the game of bingo may not be loaned to any person, except that this provision shall not prohibit the investment of the proceeds in any licensed banking or savings institution, instrument of the United States, Missouri, or any political subdivision thereof. Any person who violates the provisions of this paragraph shall be guilty of a class C misdemeanor; and

(c) The actual cost of conducting the game shall only include the following:

a. The cost of the prizes;

b. The purchasing of the bingo cards from a licensed supplier;

c. The purchasing or leasing of the equipment used in conducting the game;

d. The lease rental on the premises in which the game is conducted to include an allocation of utility costs, if applicable, costs of providing security, including the employment of a reasonable number of security personnel at a compensation level which complies with rules and regulations promulgated by the commission and such personnel is actually present and engaged in security duties, and bookkeeping and accounting expenses;

e. The actual cost of providing reasonable janitorial services. The cost of such services shall not be above the fair market rate charged for similar services in the community where the bingo game is being conducted;

f. Subject to constitutional restrictions, if any, the fair market cost of advertising each bingo occasion. Such advertising shall be procured in accordance with the rules and regulations of the commission;

(2) No person shall participate in conducting or managing the game of bingo except a person who has been a bona fide member of the licensed organization for at least two years immediately preceding such participation, who is not a paid staff person of the licensed organization employed and compensated specifically for conducting or managing the game of bingo and who volunteers the time and service necessary to conduct the game. Subject to constitutional restrictions, if any, no person shall participate in the actual operation of the game of bingo under the direction of a person conducting or managing the game of bingo, except a person who has been a bona fide member of the licensed organization for at least one year immediately preceding such participation, who is not a paid staff person of the licensed organization employed and compensated specifically for operating the game of bingo and who volunteers the time and service necessary to operate the game. If any post or organization, by its national charter, has established an auxiliary organization for spouses, then members of the auxiliary organization shall be considered bona fide members of the licensed organization and members of the post or organization shall be considered bona fide members of the auxiliary organization for the purposes of this subdivision. Any person who is a duly ordained member of the clergy and any person who is a full-time employee or staff member of the licensed organization employed for at least two years by that organization in a capacity not directly related to the conducting or managing of the game of bingo, who has specific assigned duties under a definite job description with the licensed organization, and who volunteers time and assistance

to the organization without compensation for such time and assistance in the conducting and managing of the game of bingo by the organization shall not be considered a paid staff person for the purposes of this subdivision. No full-time employee or staff member shall volunteer such time and assistance to more than one organization nor more than one day in any week. The commission shall establish guidelines for the determination of whether a person is a paid staff person within the meaning of this subdivision and shall specifically approve any full-time employee or staff member of the organization before such employee or staff member may volunteer time and assistance in the conducting and managing of bingo games for any organization. The commission may suspend the approval of any employee or staff member;

(3) No person, firm, partnership or corporation shall receive any remuneration, profit or gift for participating in the management, conduct or operation of the game, including the granting or use of bingo cards without charge or at a reduced charge from the licensed organization or from any other source;

(4) The aggregate retail value of all prizes or merchandise awarded, except prizes or merchandise awarded by pull-tab cards and progressive bingo games, in any single day of bingo may not exceed [three thousand six hundred dollars and the prize awarded for any one game, other than progressive bingo games authorized pursuant to section 313.013, may not exceed five hundred dollars cash or its equivalent. No more than one five-hundred-dollar prize, other than prizes in progressive bingo games, shall be awarded on any single day of bingo] **the amount set by the commission per regulation;**

(5) The number of games may not exceed sixty-two in any one day, including regular and special games. For purposes of this subdivision, the use of a pull-tab card and progressive bingo games shall not count as one of the sixty-two games per day, as limited by this subdivision, but no pull-tab card may be used except in conjunction with one of such sixty-two games;

(6) The price paid for a single bingo card under the license may not exceed one dollar. The commission may establish by rule or regulation the number of bingo cards which may be placed on a single bingo sheet. The price for a single pull-tab card may not exceed one dollar. [The price for a single special game bingo card may not exceed fifty cents.] A licensee may not require a [minimum number of cards to be purchased by any individual] **player to purchase more than a standard pack in order to participate in the bingo occasion;**

(7) The number of bingo days conducted by a licensee under the provisions of sections 313.005 to 313.080 shall be limited to [one day] **two days** per week;

(8) Any person, officer or director of any firm or corporation, and any partner of any partnership renting or leasing to a licensed organization equipment or premises for use in a game shall meet all the qualifications set forth in subdivisions (1) to (5) and (8) of section 313.035 and shall not be a paid staff person of the licensee. Proof of compliance with this subdivision shall be submitted to the commission by the licensee in the manner required by the commission;

(9) Subject to constitutional restrictions, if any, an organization licensed to conduct bingo in the state of Missouri may advertise a bingo occasion or special event bingo if expenditures for advertisement do not exceed [two] **ten** percent of the total amount expended from receipts of bingo conducted by the licensed organization for charitable, religious or philanthropic purposes]. No advertising for any bingo occasion or occasions conducted by any organization shall include any reference to an aggregate value of bingo prizes which exceed the amount authorized by law to be paid out in a single bingo occasion];

(10) No person under the age of sixteen years may play or participate in the conducting of bingo. Any person under the age of sixteen years may be within the area where bingo is being played only when accompanied by his parent or guardian;

(11) No licensee shall lease premises in which it conducts bingo games from someone who is not a hall provider licensed by the commission;

(12) No licensee shall pay any consulting fees to any person for any service performed in relation to the bingo game;

(13) No licensee shall pay concession fees to any person who provides refreshments to the participants in the bingo game;

(14) No licensee shall conduct a bingo session at any time during the [ten-hour] period between [midnight and 10:00 a.m.] **1:00 a.m. and 7:00 a.m.**;

(15) No licensee, while a bingo game is being conducted, shall knowingly permit entry to any part of the licensed premises to any person of notorious or unsavory reputation or who has an extensive police record or who has been convicted of a felony;

(16) No vending machine or any mechanized coin-operated machine may be used to sell pull-tab cards or to pay prize money, merchandise gifts or any other form of a prize;

(17) No rented or reusable bingo cards may be used to conduct any game. All games must be conducted with disposable paper bingo cards that are marked by permanent ink as prescribed by the rules and regulations of the commission, **or by electronic bingo card monitoring device as approved by the commission**;

(18) No licensee shall purchase or use any bingo supplies from a person who is not licensed by the state of Missouri as a bingo supplier.

313.045. ANNUAL REPORTS BY CERTAIN LICENSEES — CONTENTS. — Each **regular bingo** licensee [which awards to winners of bingo games prizes or merchandise having an aggregate retail value of more than seven thousand five hundred dollars annually] **and any special bingo licensee which conducts games on more than three occasions in any calendar year** shall report [annually] **quarterly** to the commission on forms prescribed by the commission the following information:

- (1) The number of games it has conducted during the reporting year;
- (2) The location at which and the days it conducted games;
- (3) The gross receipts it received from each game;
- (4) An itemization of the cost of conducting each game, other than for prizes, and the [names and addresses] **name** of the person to whom said expenses were paid;
- (5) The purposes for which the net proceeds of the game were used and the amounts so used;
- (6) Any other information that the director may require by rule or regulation.

313.050. RECORDS TO BE KEPT — RETENTION PERIOD. — Each licensee shall keep a complete record of bingo games conducted within the previous [three] **two** years, **except for the records stipulated as one-year retention by regulation**. Such records shall be open to inspection by the commission.

313.057. SUPPLIERS LICENSE REQUIRED, BACKGROUND CHECKS REQUIRED, EXCEPTIONS TO LICENSURE, QUALIFICATIONS, FEE — RECORDS — PULL-TAB CARDS, TAX ON — RESTRICTIONS ON USE — FAILURE TO PAY TAX, PENALTY. — 1. It is unlawful for any person, either as an owner, lessee or employee, to operate, carry on, conduct or maintain any form of manufacturing, selling, leasing or distribution of any bingo equipment or supplies without having first procured and maintained a Missouri bingo equipment and supplies manufacturer or supplier license.

2. The commission shall submit two sets of fingerprints for each key person, as defined in commission rules and regulations, of an entity or organization seeking issuance or renewal of a Missouri bingo equipment and supplies manufacturer or supplier license, for the purpose of checking the person's prior criminal history when the commission determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. The second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the commission of any criminal history

information or lack of criminal history information discovered on the individual. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the commission.

3. The holder of a state bingo license may, within two years of cessation of conducting bingo or upon specific approval by the commission, dispose of by sale in a manner approved by the commission, any or all of his bingo equipment and supplies, without a supplier's license. In case of foreclosure of a lien by a bank or other person holding a security interest for which bingo equipment is security in whole or in part for the lien, the commission may authorize the disposition of the bingo equipment without requiring a supplier's license.

4. Any person whom the commission determines to be a suitable person to receive a license pursuant to the provisions of this section may be issued a manufacturer's or supplier's license. The commission may require suppliers to post a bond with the commission in an amount and in the manner prescribed by the commission. The burden of proving his qualification to receive or hold a license pursuant to this section is at all times on the applicant or licensee.

5. The commission shall charge and collect from each applicant for a supplier's license a one-time application fee set by the commission, not to exceed five thousand dollars. The commission shall charge and collect an annual renewal fee for each supplier licensee not to exceed one thousand dollars. **The applicant shall be responsible for the total cost of the criminal history investigation. If the cost of the investigation exceeds the total amount of fees filed by the applicant in this subsection, the commission may assess additional fees as it deems appropriate.**

6. The commission shall charge and collect from each applicant for a manufacturer's license a one-time application fee set by the commission, not to exceed [one] five thousand dollars. The commission shall charge and collect an annual renewal fee for each manufacturer licensee not to exceed [five hundred] one thousand dollars. **The applicant shall be responsible for the total cost of the criminal history investigation. If the cost of the investigation exceeds the total amount of fees filed by the applicant in this subsection, the commission may assess additional fees as it deems appropriate.**

7. The commission shall charge and collect from each applicant for a hall provider's license a one-time application fee set by the commission, not to exceed seven hundred fifty dollars. The commission shall charge and collect an annual renewal fee for each hall provider licensee not to exceed five hundred dollars.

8. All licenses issued pursuant to this section shall be issued for the calendar year and shall expire on December thirty-first of each year. Regardless of the date of application or issuance of the license, the fee to be charged and collected pursuant to this section shall be the full annual fee.

9. All license fees collected pursuant to this section shall be paid over immediately to the state treasurer to be deposited to the credit of the gaming commission [bingo] fund.

10. All licensees pursuant to this section shall maintain for a period of not less than three years full and complete records of all business carried on in this state and shall make same available for inspection to any duly authorized representative of the commission. If a supplier does not receive payment in full from an organization within thirty days of the delivery of bingo supplies, the supplier shall notify the commission in writing, or in a manner specified by the commission in its rules and regulations, of the delinquency. Upon receipt of the notice of delinquency, the commission shall notify all suppliers that until further notice from the commission, all sales of bingo supplies to the delinquent organizations shall be on a cash-only basis. Upon receipt of the notice from the commission, no supplier may extend credit to the delinquent organization until such time as the commission approves credit sales. If a manufacturer does not receive payment in full from a supplier within ninety days of the delivery of bingo supplies, the manufacturer shall notify the commission in writing, or in a manner specified by the commission in its rules and regulations, of the delinquency. Upon receipt of the notice of delinquency, the commission shall notify all manufacturers that until further notice

from the commission, all sales of bingo supplies to the delinquent supplier shall be on a cash-only basis. Upon receipt of the notice from the commission, no manufacturer may extend credit to the delinquent supplier until such time as the commission approves credit sales.

11. Until January 1, 1995, all suppliers shall pay a tax on all pull-tab cards distributed by them in the amount of ten dollars per box when sold by any organization licensed to conduct bingo pursuant to the provisions of sections 313.005 to 313.080. No box sold shall contain more than twenty-four hundred pull-tab cards. Beginning January 1, 1995, a tax is hereby imposed in the amount of two percent of the gross receipts of the retail sales value charged for each pull-tab card sold in Missouri to be paid by the supplier. The taxes, less two percent of the total amount paid which may be retained by the supplier, if timely filed and paid, shall be paid on a monthly basis to the commission by each supplier of pull-tabs and shall be due on the last day of each month following the month in which the pull-tabs were sold. The taxes shall be deposited in the state treasury, credited to the bingo proceeds for education fund. All pull-tab cards sold by suppliers in this state shall bear on the face thereof the amount for which such pull-tab cards will be sold[, and the license number of the supplier shall be printed on the inventory statement commonly called the flare, enclosed in each unit container]. Each unit container shall contain cards printed in such a manner as to ensure that at least sixty percent of the gross revenues generated by the ultimate sale of such cards shall be returned to the final purchasers of such cards. Any supplier who fails to pay the tax imposed pursuant to this subsection shall have his license issued pursuant to this section revoked and shall be guilty of a class A misdemeanor.

Approved July 13, 2010

SB 942 [HCS SCS SB 942]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows municipalities to annex property within research, development, and office park projects under certain circumstances

AN ACT to amend chapters 71 and 79, RSMo, by adding thereto two new sections relating to the annexation of property within research, development, and office park projects.

SECTION

A. Enacting clause.

71.275. Annexation of contiguous land with a research, development, or office park project, procedure.

79.025. Annexation of territory prohibited, when (City of Byrnes Mill).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 71 and 79, RSMo, are amended by adding thereto two new sections, to be known as sections 71.275 and 79.025, to read as follows:

71.275. ANNEXATION OF CONTIGUOUS LAND WITH A RESEARCH, DEVELOPMENT, OR OFFICE PARK PROJECT, PROCEDURE. — **Notwithstanding any other provision of this chapter to the contrary, if the governing body of any municipality finds it in the public interest that a parcel of land within a research, development, or office park project established under section 172.273, that is contiguous and compact to the existing corporate limits of the municipality and located in an unincorporated area of the county, should be located in the municipality, such municipality may annex such parcel, provided that the**

municipality obtains written consent of all the property owners located within the unincorporated area of such parcel.

79.025. ANNEXATION OF TERRITORY PROHIBITED, WHEN (CITY OF BYRNES MILL). — No city of the fourth classification with more than two thousand three hundred but fewer than two thousand four hundred inhabitants and located in any county with a charter form of government and with more than one hundred ninety-eight thousand but fewer than one hundred ninety-nine thousand two hundred inhabitants shall annex any territory adjacent to the city if such adjacent territory proposed for annexation does not contain any registered voters unless the city has obtained the written consent of all the owners of real property within such adjacent territory.

Approved July 13, 2010

SB 981 [SB 981]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Kansas City to seek voter approval to impose a sales tax to provide revenues for public safety activities including operations and capital improvements

AN ACT to repeal section 94.577, RSMo, and to enact in lieu thereof one new section relating to taxes imposed by certain cities to fund public safety activities including operations and capital improvements.

SECTION

- A. Enacting clause.
94.577. Sales tax imposed in certain cities — rates of tax — election procedure — revenue to be used for capital improvements — revenue bonds, retirement — special trust fund — limitation on use of revenue by city of St. Louis — refunds authorized — Kansas City alternative tax authorized.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 94.577, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 94.577, to read as follows:

94.577. SALES TAX IMPOSED IN CERTAIN CITIES — RATES OF TAX — ELECTION PROCEDURE — REVENUE TO BE USED FOR CAPITAL IMPROVEMENTS — REVENUE BONDS, RETIREMENT — SPECIAL TRUST FUND — LIMITATION ON USE OF REVENUE BY CITY OF ST. LOUIS — REFUNDS AUTHORIZED — KANSAS CITY ALTERNATIVE TAX AUTHORIZED. — 1. The governing body of any municipality except those located in whole or in part within any first class county having a charter form of government and not containing any part of a city with a population of four hundred thousand or more and adjacent to a city not within a county for that part of the municipality located within such first class county is hereby authorized to impose, by ordinance or order, a one-eighth, one-fourth, three-eighths, or one-half of one percent sales tax on all retail sales made in such municipality which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of funding capital improvements, including the operation and maintenance of capital improvements, which may be funded by issuing bonds which will be retired by the revenues received from the sales tax authorized by this section or the retirement of debt under previously authorized bonded indebtedness. A municipality located in a charter county may impose a sales tax on all retail sales for capital

improvements as provided in section 94.890. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; but no ordinance imposing a sales tax under the provisions of this section shall be effective unless the governing body of the municipality submits to the voters of the municipality, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the municipality to impose such tax and, if such tax is to be used to retire bonds authorized under this section, to authorize such bonds and their retirement by such tax, or to authorize the retirement of debt under previously authorized bonded indebtedness.

2. The ballot of submission shall contain, but need not be limited to:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) impose a sales tax of (insert amount) for the purpose of funding capital improvements which may include the retirement of debt under previously authorized bonded indebtedness?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO"; or

(2) If the proposal submitted involves authorization to issue bonds and repay such bonds with revenues from the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) issue bonds in the amount of (insert amount) to fund capital improvements and impose a sales tax of (insert amount) to repay bonds?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in box opposite "NO". If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, including when the proposal authorizes the reduction of debt under previously authorized bonded indebtedness under subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect, except that any proposal submitted under subdivision (2) of this subsection to issue bonds and impose a sales tax to retire such bonds must be approved by the constitutionally required percentage of the voters voting thereon to become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality shall have no power to issue any bonds or impose the sales tax authorized in this section unless and until the governing body of the municipality shall again have submitted another proposal to authorize the governing body of the municipality to issue any bonds or impose the sales tax authorized by this section, and such proposal is approved by the requisite majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section, except that any municipality with a population of greater than four hundred thousand and located within more than one county may submit a proposal pursuant to this section to the voters sooner than twelve months from the date of the last proposal submitted pursuant to this section if submitted to the voters on or before November 6, 2001.

3. All revenue received by a municipality from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for capital improvements, including the operation and maintenance of capital improvements, for so long as the tax shall remain in effect. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with revenues raised by the tax authorized by this section. Any funds in the special trust fund required by this subsection which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The

provisions of this subsection shall apply only to taxes authorized by this section which have not been imposed to retire bonds issued pursuant to this section.

4. All revenue received by a municipality which issues bonds under this section and imposes the tax authorized by this section to retire such bonds shall be deposited in a special trust fund and shall be used solely to retire such bonds, except to the extent that such funds are required for the operation and maintenance of capital improvements. Once all of such bonds have been retired, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with the revenue received as a result of the issuance of such bonds. Any funds in the special trust fund required by this subsection which are not needed to meet current obligations under the bonds issued under this section may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this section which have been imposed to retire bonds issued under this section.

5. After the effective date of any tax imposed under the provisions of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax in the same manner as provided in sections 94.500 to 94.550, and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed pursuant to this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. No tax imposed pursuant to this section for the purpose of retiring bonds issued under this section may be terminated until all of such bonds have been retired.

7. In any city not within a county, no tax shall be imposed pursuant to this section for the purpose of funding in whole or in part the construction, operation or maintenance of a sports stadium, field house, indoor or outdoor recreational facility, center, playing field, parking facility or anything incidental or necessary to a complex suitable for any type of professional sport or recreation, either upon, above or below the ground.

8. Any tax imposed under this section in any home rule city with more than four hundred thousand inhabitants and located in more than one county solely for public transit purposes shall not be considered economic activity taxes as such term is defined under sections 99.805 and 99.918, RSMo, and tax revenues derived from such tax shall not be subject to allocation under the provisions of subsection 3 of section 99.845, RSMo, or subsection 4 of section 99.957, RSMo.

9. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such municipalities. If any municipality abolishes the tax, the municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such municipality, the director of revenue shall remit the balance in the account to the municipality and close the account of that municipality. The director of revenue shall notify each municipality of each instance of any amount refunded or any check redeemed from receipts due the municipality.

10. Any home rule city with more than four hundred thousand inhabitants and located in more than one county is hereby authorized to impose, in lieu of the tax

authorized under subsection 1 of this section, by ordinance or order, a one-eighth, one-fourth, three-eighths, or one-half of one percent sales tax on all retail sales made in such municipality which are subject to taxation under the provisions of sections 144.010 to 144.525 for the purpose of providing revenues for public safety activities, including operations and capital improvements, which may be funded by issuing bonds which will be retired by the revenues received from the sales tax authorized by this section or the retirement of debt under previously authorized bonded indebtedness. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; but no ordinance imposing a sales tax under the provisions of this section shall be effective unless the governing body of the municipality submits to the voters of the municipality, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the municipality to impose such tax and, if such tax is to be used to retire bonds authorized under this section, to authorize such bonds and their retirement by such tax, or to authorize the retirement of debt under previously authorized bonded indebtedness.

11. The ballot of submission shall contain, but need not be limited to:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) impose a sales tax of (insert amount) for the purpose of providing revenues for public safety activities, including operations and capital improvements, which may include the retirement of debt under previously authorized bonded indebtedness?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO"; or

(2) If the proposal submitted involves authorization to issue bonds and repay such bonds with revenues from the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) issue bonds in the amount of (insert amount) for the purpose of providing revenues for public safety activities, including operations and capital improvements, and impose a sales tax of (insert amount) to repay bonds?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

The ballot may include descriptions of specific uses to which the revenues from the tax will be applied.

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, including when the proposal authorizes the reduction of debt under previously authorized bonded indebtedness under subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect, except that any proposal submitted under subdivision (2) of this subsection to issue bonds and impose a sales tax to retire such bonds must be approved by the constitutionally required percentage of the voters voting thereon to become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality shall have no power to issue any bonds or impose the sales tax authorized in this section unless and until the governing body of the municipality shall again have submitted another proposal to authorize the governing body of the municipality to issue any bonds or impose the sales tax authorized by subsection 10 of this section, and such proposal is approved by the requisite majority of the qualified voters voting thereon.

12. All revenue received by a municipality from the tax authorized under the provisions of subsection 10 of this section shall be deposited in a special trust fund and

shall be used solely for public safety activities for so long as the tax shall remain in effect. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund required by this subsection shall be used solely for the public safety activities authorized in subsection 10 of this section. Any funds in the special trust fund required by this subsection which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this subsection which have not been imposed to retire bonds issued pursuant to this subsection.

13. All revenue received by a municipality which issues bonds under subsection 10 of this section and imposes the tax authorized by this section to retire such bonds shall be deposited in a special trust fund and shall be used solely to retire such bonds, except to the extent that such funds are required for the operation of the public safety department. Once all of such bonds have been retired, all funds remaining in the special trust fund required by this subsection shall be used solely for public safety activities. Any funds in the special trust fund required by this subsection which are not needed to meet current obligations under the bonds issued under this section may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by subsection 10 of this section which have been imposed to retire bonds issued under this section.

14. After the effective date of any tax imposed under the provisions of subsection 10 of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax in the same manner as provided in sections 94.500 to 94.550, and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed pursuant to this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue. Except as modified in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed under this section.

15. No tax imposed pursuant to subsection 10 of this section for the purpose of retiring bonds issued under this section may be terminated until all of such bonds have been retired.

Approved July 12, 2010

SB 984 [SS SB 984]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the provision of law which makes it a class B misdemeanor for any gaming licensee to exchange tokens, chips, or other forms of credit used on gambling games for anything of value

AN ACT to repeal sections 313.805 and 313.830, RSMo, and to enact in lieu thereof two new sections relating to prohibited acts on excursion gambling boats, with penalty provisions.

SECTION

A. Enacting clause.

313.805. Powers of commission — boats to cruise, exceptions.

313.830. Prohibited acts, penalties — commission to refer violations to attorney general and prosecuting attorney — venue for actions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 313.805 and 313.830, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 313.805 and 313.830, to read as follows:

313.805. POWERS OF COMMISSION — BOATS TO CRUISE, EXCEPTIONS. — The commission shall have full jurisdiction over and shall supervise all gambling operations governed by sections 313.800 to 313.850. The commission shall have the following powers and shall promulgate rules and regulations to implement sections 313.800 to 313.850:

(1) To investigate applicants and determine the priority and eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Missouri;

(2) To license the operators of excursion gambling boats and operators of gambling games within such boats, to identify occupations within the excursion gambling boat operations which require licensing, and adopt standards for licensing the occupations including establishing fees for the occupational licenses and to license suppliers;

(3) To adopt standards under which all excursion gambling boat operations shall be held and standards for the facilities within which the gambling operations are to be held. Notwithstanding the provisions of chapter 311, RSMo, to the contrary, the commission may authorize the operation of gambling games on an excursion gambling boat which is also licensed to sell or serve alcoholic beverages, wine, or beer. The commission shall regulate the wagering structure for gambling excursions, provided that the commission shall not establish any regulations or policies that limit the amount of wagers, losses, or buy-in amounts;

(4) To enter the premises of excursion gambling boats, facilities, or other places of business of a licensee within this state to determine compliance with sections 313.800 to 313.850;

(5) To investigate alleged violations of sections 313.800 to 313.850 or the commission rules, orders, or final decisions;

(6) To assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorized or authorized, conducted during the previous twelve months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced as provided in sections 513.600 to 513.645, RSMo;

(7) To require a licensee, an employee of a licensee or holder of an occupational license to remove a person violating a provision of sections 313.800 to 313.850 or the commission rules, orders, or final orders, or other person deemed to be undesirable from the excursion gambling boat or adjacent facilities;

(8) To require the removal from the premises of a licensee, an employee of a licensee, or a holder of an occupational license for a violation of sections 313.800 to 313.850 or a commission rule or engaging in a fraudulent practice;

(9) To require all licensees to file all financial reports required by rules and regulations of the commission;

(10) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other pertinent documents, and to administer oaths and affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce sections 313.800 to 313.850 or the commission rules;

(11) To keep accurate and complete records of its proceedings and to certify the records as may be appropriate;

(12) To ensure that the gambling games are conducted fairly. No gambling device shall be set to pay out less than eighty percent of all wagers;

(13) To require all licensees of gambling game operations to use a cashless wagering system whereby all players' money is converted to physical or electronic tokens, electronic cards, or chips which only can be used [for wagering] on the excursion gambling boat;

(14) To require excursion gambling boat licensees to develop a system, approved by the commission, that allows patrons the option to prohibit the excursion gambling boat licensee from using identifying information for marketing purposes. The provisions of this subdivision shall apply only to patrons giving identifying information for the first time. Such system shall be submitted to the commission by October 1, 2000, and approved by the commission by January 1, 2001. The excursion gambling boat licensee shall use identifying information obtained from patrons who have elected to have marketing blocked under the provisions of this section only for the purposes of enforcing the requirements contained in sections 313.800 to 313.850. This section shall not prohibit the commission from accessing identifying information for the purposes of enforcing section 313.004 and sections 313.800 to 313.850;

(15) To determine which of the authorized gambling games will be permitted on any licensed excursion gambling boat;

(16) Excursion gambling boats shall cruise, unless the commission finds that the best interest of Missouri and the safety of the public indicate the need for continuous docking of the excursion gambling boat in any city or county authorized pursuant to subsection 10 of section 313.812. The commission shall base its decision to allow continuously docked excursion gambling boats on any of the following criteria: the docking location or the excursion cruise could cause danger to the boat's passengers, violate federal law or the law of another state, or cause disruption of interstate commerce or possible interference with railway or barge transportation. In addition, the commission shall consider economic feasibility or impact that would benefit land-based development and permanent job creation. The commission shall not discriminate among applicants for continuous-docking excursion gambling that are similarly situated with respect to the criteria set forth in this section;

(17) The commission shall render a finding concerning the possibility of continuous docking, as described in subdivision (15) of this section, within thirty days after a hearing on any request from an applicant or licensee. Such hearing may be held prior to any final action on licensing to assist an applicant and any city or county in the finalizing of their economic development plan;

(18) To require any applicant for a license or renewal of a license to operate an excursion gambling boat to provide an affirmative action plan which has as its goal the use of best efforts to achieve maximum employment of African-Americans and other minorities and maximum participation in the procurement of contractual purchases of goods and services. This provision shall be administered in accordance with all federal and state employment laws, including Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. At license renewal, the licensee will report on the effectiveness of the plan. The commission shall include the licensee's reported information in its annual report to the joint committee on gaming and wagering;

(19) To take any other action as may be reasonable or appropriate to enforce sections 313.800 to 313.850 and the commission rules.

313.830. PROHIBITED ACTS, PENALTIES — COMMISSION TO REFER VIOLATIONS TO ATTORNEY GENERAL AND PROSECUTING ATTORNEY — VENUE FOR ACTIONS. — 1. A person is guilty of a class D felony for any of the following:

(1) Operating a gambling excursion where wagering is used or to be used without a license issued by the commission;

(2) Operating a gambling excursion where wagering is permitted other than in the manner specified by section 313.817; or

(3) Acting, or employing a person to act, as a shill or decoy to encourage participation in a gambling game.

2. A person is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for the second and subsequent offenses for any of the following:

(1) Permitting a person under the age of twenty-one to make a wager while on an excursion gambling boat;

(2) Making or attempting to make a wager while on an excursion gambling boat when such person is under the age of twenty-one years; or

(3) Aiding a person who is under the age of twenty-one in entering an excursion gambling boat or in making or attempting to make a wager while on an excursion gambling boat.

3. A person wagering or accepting a wager at any location outside the excursion gambling boat is in violation of section 572.040, RSMo.

4. A person commits a class D felony and, in addition, shall be barred for life from excursion gambling boats under the jurisdiction of the commission, if the person:

(1) Offers, promises, or gives anything of value or benefit to a person who is connected with an excursion gambling boat operator including, but not limited to, an officer or employee of a licensee or holder of an occupational license pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission;

(2) Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with an excursion gambling boat including, but not limited to, an officer or employee of a licensee, or holder of an occupational license, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission;

(3) Uses a device to assist in any of the following:

(a) In projecting the outcome of the game;

(b) In keeping track of the cards played;

(c) In analyzing the probability of the occurrence of an event relating to the gambling game;

or

(d) In analyzing the strategy for playing or betting to be used in the game, except as permitted by the commission;

(4) Cheats at a gambling game;

(5) Manufactures, sells, or distributes any cards, chips, dice, game or device which is intended to be used to violate any provision of sections 313.800 to 313.850;

(6) Instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of sections 313.800 to 313.850;

(7) Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(8) Places a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game which is the subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome;

(9) Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games, with intent to defraud, without having made a wager contingent on winning a gambling game, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won;

(10) Knowingly entices or induces a person to go to any place where a gambling game is being conducted or operated in violation of the provisions of sections 313.800 to 313.850 with the intent that the other person plays or participates in that gambling game;

(11) Uses counterfeit chips or tokens in a gambling game;

(12) Knowingly uses, other than chips, tokens, coin, of other methods of credit approved by the commission, legal tender of the United States of America, or to use coin not of the denomination as the coin intended to be used in the gambling games;

(13) Has in the person's possession any device intended to be used to violate a provision of sections 313.800 to 313.850;

(14) Has in the person's possession, except a gambling licensee or employee of a gambling licensee acting in furtherance of the employee's employment, any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, tokens, chips or other contents of the gambling game; or

(15) Knowingly makes a false statement of any material fact to the commission, its agents or employees.

5. The possession of one or more of the devices described in subdivision (3), (5), (13) or (14) of subsection 4 of this section permits a rebuttable inference that the possessor intended to use the devices for cheating.

6. Except for wagers on gambling games or exchanges for money as provided in section 313.817, **or as payment for food or beverages on the excursion gambling boat**, a licensee who exchanges tokens, chips, or other forms of credit to be used on gambling games for anything of value commits a class B misdemeanor.

7. If the commission determines that reasonable grounds to believe that a violation of sections 313.800 to 313.850 has occurred or is occurring which is a criminal offense, the commission shall refer such matter to both the state attorney general and the prosecuting attorney or circuit attorney having jurisdiction. The state attorney general and the prosecuting attorney or circuit attorney with such jurisdiction shall have concurrent jurisdiction to commence actions for violations of sections 313.800 to 313.850 where such violations have occurred.

8. Venue for all crimes committed on an excursion gambling boat shall be the jurisdiction of the home dock city or county or such county where a home dock city is located.

Approved July 13, 2010

SB 987 [SB 987]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases the statutory award amount for research projects funded by the University of Missouri Board of Curators

AN ACT to repeal section 172.794, RSMo, and to enact in lieu thereof one new section relating to funding for research projects by the University of Missouri board of curators.

SECTION

A. Enacting clause.

172.794. Selection of award recipients, requirements.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 172.794, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 172.794, to read as follows:

172.794. SELECTION OF AWARD RECIPIENTS, REQUIREMENTS. — 1. The board of curators, with the recommendations of the advisory board, shall award funds to selected investigators in accordance with the following provisions:

(1) Individual awards shall not exceed **two hundred** fifty thousand dollars per year and shall expire at the end of one or two years, depending on the recommendation of the advisory board for each award;

(2) Costs for overhead of the grantee individual or institution shall not be allowed;

(3) Investigators shall be affiliated with a public or private educational, health care, voluntary health association or research institution which shall specify the institutional official responsible for administration of the award;

(4) Awards shall be used to obtain preliminary data to test hypotheses and to enable investigators to develop subsequent competitive applications for long-term funding from other sources; and

(5) The research project shall be conducted in Missouri.

2. Funds appropriated for but not awarded to research projects in any given year shall be included in the board of curators' appropriations request for research projects in the succeeding year.

Approved June 24, 2010

SB 1007 [CCS HCS SS SB 1007]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various requirements for public assistance programs administered by the state

AN ACT to repeal sections 172.850, 199.010, 199.200, 199.210, 199.230, 199.240, 199.250, 199.260, 208.010, 208.215, 208.453, 208.895, 208.909, 208.918, 660.300, 660.425, and 660.465, RSMo, and to enact in lieu thereof twenty new sections relating to public assistance programs administered by the state, with penalty provisions for a certain section.

SECTION

A. Enacting clause.

172.850. Missouri rehabilitation center may be transferred to University of Missouri, duties — tuberculosis testing lab, department's duties.

198.016. Information on home- and community-based services to be provided prior to admission.

199.010. Missouri rehabilitation center, University of Missouri to operate, duties for head injury — department to provide rehabilitation and tuberculosis treatment.

199.200. Procedure in circuit court — duties of local prosecuting officers — costs — emergency temporary commitment, procedures.

199.210. Rights of patient, witnesses — order of court — transportation costs.

199.230. Confinement on order, duration.

199.240. Consent required for medical or surgical treatment.

199.250. Facilities to be provided for tuberculosis testing, costs, how paid.

199.260. Apprehension and return of patient leaving rehabilitation center without discharge.

208.010. Eligibility for public assistance, how determined — means test — certain medical assistance benefits to include payment of deductible and coinsurance — prevention of spousal impoverishments, division of assets, community spouse defined — burial lots defined — diversion of institutionalized spouse's income.

208.046. Child care assistance, income eligibility criteria, vouchers or direct reimbursement, when.

- 208.215. Payer of last resort — liability for debt due the state, ceiling — rights of department, when, procedure, exception — report of injuries required, form, recovery of funds — recovery of medical assistance paid, when — court may adjudicate rights of parties, when.
- 208.453. Hospitals to pay a federal reimbursement allowance for privilege of providing inpatient care, defined — elimination of allowance for certain hospitals.
- 208.895. Referral for services, department duties — contracting for assessments, requirements — expiration date.
- 208.909. Responsibilities of recipients and vendors.
- 208.918. Vendor requirements, philosophy and services.
- 660.023. In-home services providers, telephone tracking system required, use of — rulemaking authority.
- 660.300. Report of abuse or neglect of in-home services or home health agency client, duty — penalty — contents of report — investigation, procedure — confidentiality of report — immunity — retaliation prohibited, penalty — employee disqualification list — safe at home evaluations, procedure.
- 660.425. Home services providers tax imposed, definitions.
- 660.465. Expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 172.850, 199.010, 199.200, 199.210, 199.230, 199.240, 199.250, 199.260, 208.010, 208.215, 208.453, 208.895, 208.909, 208.918, 660.300, 660.425, and 660.465, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 172.850, 198.016, 199.010, 199.200, 199.210, 199.230, 199.240, 199.250, 199.260, 208.010, 208.046, 208.215, 208.453, 208.895, 208.909, 208.918, 660.023, 660.300, 660.425, and 660.465, to read as follows:

172.850. MISSOURI REHABILITATION CENTER MAY BE TRANSFERRED TO UNIVERSITY OF MISSOURI, DUTIES — TUBERCULOSIS TESTING LAB, DEPARTMENT'S DUTIES. — The Missouri rehabilitation center may be transferred to the curators of the University of Missouri from the department of health and senior services by agreement between the state department of health and senior services and the board of curators. It is the intent of the general assembly that the University of Missouri shall continue to carry out the functions of the center consistent with statutory purposes as set forth in [sections] **section** 199.010 [to 199.270, RSMo], with such reservation as may be specified by the parties pertaining to the department's continuing control of the tuberculosis testing laboratory.

198.016. INFORMATION ON HOME- AND COMMUNITY-BASED SERVICES TO BE PROVIDED PRIOR TO ADMISSION. — **Prior to admission of a MO HealthNet individual into a long-term care facility, the prospective resident or his or her next of kin, legally authorized representative, or designee shall be informed of the home and community based services available in this state and shall have on record that such home and community based services have been declined as an option.**

199.010. MISSOURI REHABILITATION CENTER, UNIVERSITY OF MISSOURI TO OPERATE, DUTIES FOR HEAD INJURY — DEPARTMENT TO PROVIDE REHABILITATION AND TUBERCULOSIS TREATMENT. — The curators of the University of Missouri shall provide for the care of persons needing head injury and other rehabilitation [and further,] **subject to appropriation by the general assembly. The department of health and senior services shall provide** for the treatment and commitment of persons having tuberculosis subject to appropriation by the general assembly.

199.200. PROCEDURE IN CIRCUIT COURT — DUTIES OF LOCAL PROSECUTING OFFICERS — COSTS — EMERGENCY TEMPORARY COMMITMENT, PROCEDURES. — 1. Upon filing of the petition, the court shall set the matter down for a hearing either during term time or in vacation, which time shall be not less than five days nor more than fifteen days subsequent to filing. A copy of the petition together with summons stating the time and place of hearing shall be served upon the person three days or more prior to the time set for the hearing. Any X-ray

picture and report of any written report relating to sputum examinations certified by the department of health and senior services or local board shall be admissible in evidence without the necessity of the personal testimony of the person or persons making the examination and report.

2. The prosecuting attorney or the city attorney shall act as legal counsel for their respective local boards in this proceeding and such authority is hereby granted. The court shall appoint legal counsel for the individual named in the petition if requested to do so if such individual is unable to employ counsel.

3. All court costs incurred in proceedings under sections 199.170 to 199.270, including examinations required by order of the court but excluding examinations procured by the person named in the petition, shall be borne by the county in which the proceedings are brought.

4. Summons shall be served by the sheriff of the county in which proceedings under sections 199.170 to 199.270 are initiated and return thereof shall be made as in other civil cases.

5. Upon the filing of an ex parte petition for emergency temporary commitment pursuant to subsection 3 of section 199.180, the court shall hear the matter within ninety-six hours of such filing. The local board shall have the authority to detain the individual named in the petition pending the court's ruling on the ex parte petition for emergency temporary commitment. If the petition is granted, the individual named in the petition shall be confined in a facility designated by the [curators of the University of Missouri] **department of health and senior services** in accordance with section 199.230 until a full hearing pursuant to subsections 1 to 4 of this section is held.

199.210. RIGHTS OF PATIENT, WITNESSES — ORDER OF COURT — TRANSPORTATION COSTS. — 1. Upon the hearing set in the order, the individual named in the order shall have a right to be represented by counsel, to confront and cross-examine witnesses against him, and to have compulsory process for the securing of witnesses and evidence in his own behalf. The court may in its discretion call and examine witnesses and secure the production of evidence in addition to that adduced by the parties; such additional witnesses being subject to cross-examination by either or both parties.

2. Upon a consideration of the petition and evidence, if the court finds that the person named in the petition is a potential transmitter and conducts himself so as to be a danger to the public health, an order shall be issued committing the individual named in the petition to a facility designated by the [curators of the University of Missouri] **department of health and senior services** and directing the sheriff to take him into custody and deliver him to the facility. If the court does not so find, the petition shall be dismissed. The cost of transporting the person to the facility designated by the [curators of the University of Missouri] **department of health and senior services** shall be paid out of general county funds.

199.230. CONFINEMENT ON ORDER, DURATION. — Upon commitment, the patient shall be confined in a facility designated by the [curators of the University of Missouri] **department of health and senior services** until such time as [the director of the facility determines that the patient no longer has active tuberculosis or that] the patient's discharge will not endanger public health.

199.240. CONSENT REQUIRED FOR MEDICAL OR SURGICAL TREATMENT. — No person committed to a facility designated by the [curators of the University of Missouri] **department of health and senior services** under sections 199.170 to 199.270 shall be required to submit to medical or surgical treatment without his consent, or, if incapacitated, without the consent of his legal guardian, or, if a minor, without the consent of a parent or next of kin.

199.250. FACILITIES TO BE PROVIDED FOR TUBERCULOSIS TESTING, COSTS, HOW PAID. — 1. The department of health and senior services may[, by agreement with the curators of the

University of Missouri,] contract for such facilities at the Missouri rehabilitation center as are necessary to carry out the functions of [the tuberculosis testing laboratory and may employ personnel as are necessary for the operation of such laboratory] **sections 199.010 to 199.350. Such contracts shall be exempt from the competitive bidding requirements of chapter 34.**

2. [The expenses incurred in the operation of the tuberculosis testing laboratory at the rehabilitation center or elsewhere shall be paid from state or federal or other funds appropriated for the maintenance and operation of the tuberculosis testing laboratory] **State payment shall be available for the treatment and care of individuals committed under section 199.210 only after benefits from all third-party payers have been exhausted.**

199.260. APPREHENSION AND RETURN OF PATIENT LEAVING REHABILITATION CENTER WITHOUT DISCHARGE. — Any person committed under the provisions of sections 199.170 to 199.270 who leaves the facility designated by the [curators of the University of Missouri] **department of health and senior services** without having been discharged by the director of the facility or other officer in charge or by order of court shall be taken into custody and returned thereto by the sheriff of any county where such person may be found, upon an affidavit being filed with the sheriff by the director of the facility, or duly authorized officer in charge thereof, to which the person had been committed.

208.010. ELIGIBILITY FOR PUBLIC ASSISTANCE, HOW DETERMINED — MEANS TEST — CERTAIN MEDICAL ASSISTANCE BENEFITS TO INCLUDE PAYMENT OF DEDUCTIBLE AND COINSURANCE — PREVENTION OF SPOUSAL IMPOVERISHMENTS, DIVISION OF ASSETS, COMMUNITY SPOUSE DEFINED — BURIAL LOTS DEFINED — DIVERSION OF INSTITUTIONALIZED SPOUSE'S INCOME. — 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the division of family services to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the division of family services; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining the need of a claimant in federally aided programs there shall be disregarded such amounts per month of earned income in making such determination as shall be required for federal participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When federal law or regulations require the exemption of other income or resources, the division of family services may provide by rule or regulation the amount of income or resources to be disregarded.

2. Benefits shall not be payable to any claimant who:

(1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given away or sold a resource within the time and in the manner specified in this subdivision. In determining the resources of an individual, unless prohibited by federal statutes or regulations, there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this subsection, and subsection 5 of this section) any resource or interest therein owned by such

individual or spouse within the twenty-four months preceding the initial investigation, or at any time during which benefits are being drawn, if such individual or spouse gave away or sold such resource or interest within such period of time at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits, including but not limited to benefits based on December, 1973, eligibility requirements, as follows:

(a) Any transaction described in this subdivision shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose;

(b) The resource shall be considered in determining eligibility from the date of the transfer for the number of months the uncompensated value of the disposed of resource is divisible by the average monthly grant paid or average Medicaid payment in the state at the time of the investigation to an individual or on his or her behalf under the program for which benefits are claimed, provided that:

a. When the uncompensated value is twelve thousand dollars or less, the resource shall not be used in determining eligibility for more than twenty-four months; or

b. When the uncompensated value exceeds twelve thousand dollars, the resource shall not be used in determining eligibility for more than sixty months;

(2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes convincing evidence that the uncompensated value of the disposed of resource or any part thereof is no longer possessed or owned by the person to whom the resource was transferred;

(3) Has received, or whose spouse with whom he or she is living has received, benefits to which he or she was not entitled through misrepresentation or nondisclosure of material facts or failure to report any change in status or correct information with respect to property or income as required by section 208.210. A claimant ineligible pursuant to this subsection shall be ineligible for such period of time from the date of discovery as the division of family services may deem proper; or in the case of overpayment of benefits, future benefits may be decreased, suspended or entirely withdrawn for such period of time as the division may deem proper;

(4) Owns or possesses resources in the sum of one thousand dollars or more; provided, however, that if such person is married and living with spouse, he or she, or they, individually or jointly, may own resources not to exceed two thousand dollars; and provided further, that in the case of a temporary assistance for needy families claimant, the provision of this subsection shall not apply;

(5) Prior to October 1, 1989, owns or possesses property of any kind or character, excluding amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, or has an interest in property, of which he or she is the record or beneficial owner, the value of such property, as determined by the division of family services, less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually living together with husband or wife, if the value of his or her property, or the value of his or her interest in property, together with that of such husband and wife, exceeds such amount;

(6) In the case of temporary assistance for needy families, if the parent, stepparent, and child or children in the home owns or possesses property of any kind or character, or has an interest in property for which he or she is a record or beneficial owner, the value of such property, as determined by the division of family services and as allowed by federal law or regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, one automobile which shall not exceed a value set forth by federal law or regulation and for a period not to exceed six months, such other real property which the family is making a good-faith effort to sell, if the family agrees in writing with the division of family services to sell

such property and from the net proceeds of the sale repay the amount of assistance received during such period. If the property has not been sold within six months, or if eligibility terminates for any other reason, the entire amount of assistance paid during such period shall be a debt due the state;

(7) Is an inmate of a public institution, except as a patient in a public medical institution.

3. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the income and resources of a relative or other person living in the home shall be taken into account to the extent the income, resources, support and maintenance are allowed by federal law or regulation to be considered.

4. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the value of burial lots or any amounts placed in an irrevocable prearranged funeral or burial contract pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053, RSMo, shall not be taken into account or considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as defined in section 214.270, RSMo, and any memorial, monument, marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436, RSMo, of an irrevocable prearranged funeral or burial contract receives any public assistance benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in interest cancel or amend the contract so that any person will be entitled to a refund, such refund shall be paid to the state of Missouri up to the amount of public assistance benefits provided pursuant to this chapter with any remainder to be paid to those persons designated in chapter 436, RSMo.

5. In determining the total property owned pursuant to subdivision (5) of subsection 2 of this section, or resources, of any person claiming or for whom public assistance is claimed, there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or any two or more policies or contracts, or any combination of policies and contracts, which provides for the payment of one thousand five hundred dollars or less upon the death of any of the following:

(1) A claimant or person for whom benefits are claimed; or

(2) The spouse of a claimant or person for whom benefits are claimed with whom he or she is living. If the value of such policies exceeds one thousand five hundred dollars, then the total value of such policies may be considered in determining resources; except that, in the case of temporary assistance for needy families, there shall be disregarded any prearranged funeral or burial contract, or any two or more contracts, which provides for the payment of one thousand five hundred dollars or less per family member.

6. Beginning September 30, 1989, when determining the eligibility of institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall comply with the provisions of the federal statutes and regulations. As necessary, the division shall by rule or regulation implement the federal law and regulations which shall include but not be limited to the establishment of income and resource standards and limitations. The division shall require:

(1) That at the beginning of a period of continuous institutionalization that is expected to last for thirty days or more, the institutionalized spouse, or the community spouse, may request an assessment by the division of family services of total countable resources owned by either or both spouses;

(2) That the assessed resources of the institutionalized spouse and the community spouse may be allocated so that each receives an equal share;

(3) That upon an initial eligibility determination, if the community spouse's share does not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the community spouse a resource allowance to increase the community spouse's share to twelve thousand dollars;

(4) That in the determination of initial eligibility of the institutionalized spouse, no resources attributed to the community spouse shall be used in determining the eligibility of the institutionalized spouse, except to the extent that the resources attributed to the community spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section 1396r-5;

(5) That beginning in January, 1990, the amount specified in subdivision (3) of this subsection shall be increased by the percentage increase in the Consumer Price Index for All Urban Consumers between September, 1988, and the September before the calendar year involved; and

(6) That beginning the month after initial eligibility for the institutionalized spouse is determined, the resources of the community spouse shall not be considered available to the institutionalized spouse during that continuous period of institutionalization.

7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods required and for the reasons specified in 42 U.S.C. Section 1396p.

8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to the provisions of section 208.080.

9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the home of the applicant or recipient when the home is providing shelter to the applicant or recipient, or his or her spouse or dependent child. The division of family services shall establish by rule or regulation in conformance with applicable federal statutes and regulations a definition of the home and when the home shall be considered a resource that shall be considered in determining eligibility.

10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts as determined due pursuant to the applicable provisions of federal regulations pertaining to Title XVIII Medicare Part B, except **for hospital outpatient services or** the applicable Title XIX cost sharing.

11. A "community spouse" is defined as being the noninstitutionalized spouse.

12. An institutionalized spouse applying for Medicaid and having a spouse living in the community shall be required, to the maximum extent permitted by law, to divert income to such community spouse to raise the community spouse's income to the level of the minimum monthly needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall occur before the community spouse is allowed to retain assets in excess of the community spouse protected amount described in 42 U.S.C. Section 1396r-5.

208.046. CHILD CARE ASSISTANCE, INCOME ELIGIBILITY CRITERIA, VOUCHERS OR DIRECT REIMBURSEMENT, WHEN. — 1. The children's division shall promulgate rules to become effective no later than July 1, 2011, to modify the income eligibility criteria for any person receiving state-funded child care assistance under this chapter, either through vouchers or direct reimbursement to child care providers, as follows:

(1) Child care recipients eligible under this chapter and the criteria set forth in 13 CSR 35-32.010, may pay a fee based on adjusted gross income and family size unit based on a child care sliding fee scale established by the children's division, which shall be subject to appropriations. However, a person receiving state-funded child care assistance under this chapter and whose income surpasses the annual appropriation level may continue to receive reduced subsidy benefits on a scale established by the children's division, at which time such person will have assumed the full cost of the maximum base child care subsidy rate established by the children's division and shall be no longer eligible for child care subsidy benefits;

(2) The sliding scale fee may be waived for children with special needs as established by the division; and

(3) The maximum payment by the division shall be the applicable rate minus the applicable fee.

2. For purposes of this section, "annual appropriation level" shall mean the maximum income level to be eligible for a full child care benefit as determined through the annual appropriations process.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

208.215. PAYER OF LAST RESORT — LIABILITY FOR DEBT DUE THE STATE, CEILING — RIGHTS OF DEPARTMENT, WHEN, PROCEDURE, EXCEPTION — REPORT OF INJURIES REQUIRED, FORM, RECOVERY OF FUNDS — RECOVERY OF MEDICAL ASSISTANCE PAID, WHEN — COURT MAY ADJUDICATE RIGHTS OF PARTIES, WHEN. — 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made [in] on behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or disability or benefits arising from a health insurance program to which the participant may be entitled. **Any health benefit plan as defined in section 376.1350, third party administrator, administrative service organization, and pharmacy benefits manager, shall process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:**

(1) For a period of three years from the date services were provided or rendered; however, an entity:

(a) Shall not be required to reimburse for items or services which are not covered under MO HealthNet;

(b) Shall not deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to provide prior authorization;

(c) Shall not be required to reimburse for items or services for which a claim was previously submitted to the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager by the health care provider or the participant and the claim was properly denied by the health benefit plan, third party administrator, administrative service organization, or pharmacy benefits manager for procedural reasons, except for timely filing, type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(d) Shall not be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim for subrogation has been filed; and

(e) **Shall reimburse for items or services to the same extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it had been properly billed at the point of sale; and**

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A [recipient] **participant** who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO

HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a [recipient] **participant** to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of

such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of the participant but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. **The computerized records of the MO HealthNet division, certified by the director or his or her designee, shall be prima facie evidence of proof of moneys expended and the amount of the debt due the state.**

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, [irrespective] **regardless** of whether [or not] an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the participant's entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The notice of lien shall contain the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be filed with the recorder. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled; or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies

available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

- (1) Actual and legal issues of liability as may exist between the [recipient] **participant** and the liable party;
- (2) Total funds available for settlement; and
- (3) An estimate of the cost to the division of pursuing its claim.

208.453. HOSPITALS TO PAY A FEDERAL REIMBURSEMENT ALLOWANCE FOR PRIVILEGE OF PROVIDING INPATIENT CARE, DEFINED — ELIMINATION OF ALLOWANCE FOR CERTAIN HOSPITALS. — Every hospital as defined by section 197.020, RSMo, except [public hospitals which are operated primarily for the care and treatment of mental disorders and] any hospital operated by the department of health and senior services, shall, in addition to all other fees and taxes now required or paid, pay a federal reimbursement allowance for the privilege of engaging in the business of providing inpatient health care in this state. For the purpose of this section, the phrase "engaging in the business of providing inpatient health care in this state" shall mean accepting payment for inpatient services rendered. The federal reimbursement allowance to be paid by a hospital which has an unsponsored care ratio that exceeds sixty-five percent or hospitals owned or operated by the board of curators, as defined in chapter 172, RSMo, may be eliminated by the director of the department of social services. The unsponsored care ratio shall be calculated by the department of social services.

208.895. REFERRAL FOR SERVICES, DEPARTMENT DUTIES — CONTRACTING FOR ASSESSMENTS, REQUIREMENTS — EXPIRATION DATE. — **1.** Upon receipt of a properly completed referral for MO HealthNet-funded home- and community-based care containing a nurse assessment or physician's order, the department of health and senior services [shall] **may**:

- (1) Review the recommendations regarding services and process the referral within fifteen business days;
 - (2) Issue a prior-authorization for home and community-based services when information contained in the referral is sufficient to establish eligibility for MO HealthNet-funded long-term care and determine the level of service need as required under state and federal regulations;
 - (3) Arrange for the provision of services by an in-home provider;
 - (4) Reimburse the in-home provider for one nurse visit to conduct an assessment and recommendation for a care plan and, where necessary based on case circumstances, a second nurse visit may be authorized to gather additional information or documentation necessary to constitute a completed referral;
 - (5) Notify the referring entity upon the authorization of MO HealthNet eligibility and provide MO HealthNet reimbursement for personal care benefits effective the date of the assessment or physician's order, and MO HealthNet reimbursement for waiver services effective the date the state reviews and approves the care plan;
-

(6) Notify the referring entity within five business days of receiving the referral if additional information is required to process the referral; and

(7) Inform the provider and contact the individual when information is insufficient or the proposed care plan requires additional evaluation by state staff that is not obtained from the referring entity to schedule an in-home assessment to be conducted by the state staff within thirty days.

2. The department of health and senior services may contract for initial home and community based assessments, including a care plan, through an independent third-party assessor. The contract shall include a requirement that:

(1) Within fifteen days of receipt of a referral for service, the contractor shall have made a face-to-face assessment of care need and developed a plan of care; and

(2) The contractor notify the referring entity within five days of receipt of referral if additional information is needed to process the referral.

The contract shall also include the same requirements for such assessments as of January 1, 2010, related to timeliness of assessments and the beginning of service. The contract shall be bid under chapter 34 and shall not be a risk-based contract.

3. The two nurse visits authorized by subsection 16 of section 660.300 shall continue to be performed by home and community based providers for including, but not limited to, reassessment and level of care recommendations. These reassessments and care plan changes shall be reviewed and approved by the independent third party assessor. In the event of dispute over the level of care required, the third party assessor shall conduct a face to face review with the client in question.

4. The provisions of this section shall expire three years after the effective date of this section.

208.909. RESPONSIBILITIES OF RECIPIENTS AND VENDORS. — 1. Consumers receiving personal care assistance services shall be responsible for:

(1) Supervising their personal care attendant;

(2) Verifying wages to be paid to the personal care attendant;

(3) Preparing and submitting time sheets, signed by both the consumer and personal care attendant, to the vendor on a biweekly basis;

(4) Promptly notifying the department within ten days of any changes in circumstances affecting the personal care assistance services plan or in the consumer's place of residence; [and]

(5) Reporting any problems resulting from the quality of services rendered by the personal care attendant to the vendor. If the consumer is unable to resolve any problems resulting from the quality of service rendered by the personal care attendant with the vendor, the consumer shall report the situation to the department; and

(6) Providing the vendor with all necessary information to complete required paperwork for establishing the employer identification number.

2. Participating vendors shall be responsible for:

(1) Collecting time sheets **or reviewing reports of delivered services** and certifying [their] **the accuracy thereof;**

(2) The Medicaid reimbursement process, including the filing of claims and reporting data to the department as required by rule;

(3) Transmitting the individual payment directly to the personal care attendant on behalf of the consumer;

(4) Monitoring the performance of the personal care assistance services plan.

3. No state or federal financial assistance shall be authorized or expended to pay for services provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the services is to the household unit, or is a household task that the members of the consumer's household may reasonably be expected to share or do for one another when they live in the same

household, unless such service is above and beyond typical activities household members may reasonably provide for another household member without a disability.

4. No state or federal financial assistance shall be authorized or expended to pay for personal care assistance services provided by a personal care attendant who is listed on any of the background check lists in the family care safety registry under sections 210.900 to 210.937, RSMo, unless a good cause waiver is first obtained from the department in accordance with section 660.317, RSMo.

5. (1) All vendors shall, by July 1, 2015, have, maintain, and use a telephone tracking system for the purpose of reporting and verifying the delivery of consumer-directed services as authorized by the department of health and senior services or its designee. Use of such a system prior to July 1, 2015, shall be voluntary. The telephone tracking system shall be used to process payroll for employees and for submitting claims for reimbursement to the MO HealthNet division. At a minimum, the telephone tracking system shall:

- (a) Record the exact date services are delivered;**
- (b) Record the exact time the services begin and exact time the services end;**
- (c) Verify the telephone number from which the services are registered;**
- (d) Verify that the number from which the call is placed is a telephone number unique to the client;**
- (e) Require a personal identification number unique to each personal care attendant;**
- (f) Be capable of producing reports of services delivered, tasks performed, client identity, beginning and ending times of service and date of service in summary fashion that constitute adequate documentation of service; and**
- (g) Be capable of producing reimbursement requests for consumer approval that assures accuracy and compliance with program expectations for both the consumer and vendor.**

(2) The department of health and senior services, in collaboration with other appropriate agencies, including centers for independent living, shall establish telephone tracking system pilot projects, implemented in two regions of the state, with one in an urban area and one in a rural area. Each pilot project shall meet the requirements of this section and section 208.918. The department of health and senior services shall, by December 31, 2013, submit a report to the governor and general assembly detailing the outcomes of these pilot projects. The report shall take into consideration the impact of a telephone tracking system on the quality of the services delivered to the consumer and the principles of self-directed care.

(3) As new technology becomes available, the department may allow use of a more advanced tracking system, provided that such system is at least as capable of meeting the requirements of this subsection.

(4) The department of health and senior services shall promulgate by rule the minimum necessary criteria of the telephone tracking system. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

6. In the event that a consensus between centers for independent living and representatives from the executive branch cannot be reached, the telephony report issued to the general assembly and governor shall include a minority report which shall detail those elements of substantial dissent from the main report.

7. No interested party, including a center for independent living, shall be required to contract with any particular vendor or provider of telephony services nor bear the full cost of the pilot program.

208.918. VENDOR REQUIREMENTS, PHILOSOPHY AND SERVICES. — 1. In order to qualify for an agreement with the department, the vendor shall have a philosophy that promotes the consumer's ability to live independently in the most integrated setting or the maximum community inclusion of persons with physical disabilities, and shall demonstrate the ability to provide, directly or through contract, the following services:

- (1) Orientation of consumers concerning the responsibilities of being an employer, supervision of personal care attendants including the preparation and verification of time sheets;
- (2) Training for consumers about the recruitment and training of personal care attendants;
- (3) Maintenance of a list of persons eligible to be a personal care attendant;
- (4) Processing of inquiries and problems received from consumers and personal care attendants;

- (5) Ensuring the personal care attendants are registered with the family care safety registry as provided in sections 210.900 to 210.937, RSMo; and

- (6) The capacity to provide fiscal conduit services **through a telephone tracking system by the date required under section 208.909.**

2. In order to maintain its agreement with the department, a vendor shall comply with the provisions of subsection 1 of this section and shall:

- (1) Demonstrate sound fiscal management as evidenced on accurate quarterly financial reports and annual audit submitted to the department; and

- (2) Demonstrate a positive impact on consumer outcomes regarding the provision of personal care assistance services as evidenced on accurate quarterly and annual service reports submitted to the department;

- (3) Implement a quality assurance and supervision process that ensures program compliance and accuracy of records; and

- (4) Comply with all provisions of sections 208.900 to 208.927, and the regulations promulgated thereunder.

660.023. IN-HOME SERVICES PROVIDERS, TELEPHONE TRACKING SYSTEM REQUIRED, USE OF — RULEMAKING AUTHORITY. — 1. All in-home services provider agencies shall, by July 1, 2015, have, maintain, and use a telephone tracking system for the purpose of reporting and verifying the delivery of home and community based services as authorized by the department of health and senior services or its designee. Use of such system prior to July 1, 2015, shall be voluntary. At a minimum, the telephone tracking system shall:

- (1) Record the exact date services are delivered;
 - (2) Record the exact time the services begin and exact time the services end;
 - (3) Verify the telephone number from which the services were registered;
 - (4) Verify that the number from which the call is placed is a telephone number unique to the client;
 - (5) Require a personal identification number unique to each personal care attendant;
- and

- (6) Be capable of producing reports of services delivered, tasks performed, client identity, beginning and ending times of service and date of service in summary fashion that constitute adequate documentation of service.

2. The telephone tracking system shall be used to process payroll for employees and for submitting claims for reimbursement to the MO HealthNet division.

3. The department of health and senior services shall promulgate by rule the minimum necessary criteria of the telephone tracking system. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated

in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

4. As new technology becomes available, the department may allow use of a more advance tracking system, provided that such system is at least as capable of meeting the requirements listed in subsection 1 of this section.

5. The department of health and senior services, in collaboration with other appropriate agencies, including in-home services providers, shall establish telephone tracking system pilot projects, implemented in two regions of the state, with one in an urban area and one in a rural area. Each pilot project shall meet the requirements of this section. The department of health and senior services shall, by December 31, 2013, submit a report to the governor and general assembly detailing the outcomes of these pilot projects. The report shall take into consideration the impact of a telephone tracking system on the quality of the services delivered to the consumer and the principles of self-directed care.

6. In the event that a consensus between in-home service providers and representatives from the executive branch cannot be reached, the telephony report issued to the general assembly and governor shall include a minority report which will detail those elements of substantial dissent from the main report.

7. No interested party, including in-home service providers, shall be required to contract with any particular vendor or provider of telephony services nor bear the full cost of the pilot program.

660.300. REPORT OF ABUSE OR NEGLECT OF IN-HOME SERVICES OR HOME HEALTH AGENCY CLIENT, DUTY — PENALTY — CONTENTS OF REPORT — INVESTIGATION, PROCEDURE — CONFIDENTIALITY OF REPORT — IMMUNITY — RETALIATION PROHIBITED, PENALTY — EMPLOYEE DISQUALIFICATION LIST — SAFE AT HOME EVALUATIONS, PROCEDURE. — 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.

2. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

4. Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

5. The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

6. In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client or home health patient has been abused or neglected by an in-home services employee or home health agency employee may report such information to the department.

7. If the investigation indicates possible abuse or neglect of an in-home services client or home health patient, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the in-home services client or home health patient from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client or home health patient in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the in-home services client or home health patient, for a period not to exceed thirty days.

8. Reports shall be confidential, as provided under section 660.320.

9. Anyone, except any person who has abused or neglected an in-home services client or home health patient, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

10. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

11. No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee because he or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he has reasonable cause to believe has been committed or has occurred.

12. Any person who abuses or neglects an in-home services client or home health patient is subject to criminal prosecution under section 565.180, 565.182, or 565.184, RSMo. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an administrative review of the department's action pursuant to chapter 621, RSMo. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.

13. The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

14. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section 660.315, to have recklessly, knowingly or purposely abused or neglected an in-home services client or home health patient while employed by an in-home services provider agency or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

15. At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536, RSMo. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to establish the plan of service or care.

The department may, as indicated by the safe at home evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

16. Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been preauthorized by the department.

17. All in-home services clients shall be advised of their rights by the department **or the department's designee** at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. **The department may contract for services relating to receiving such complaints.** The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

18. Subject to appropriations, all nurse visits authorized in sections 660.250 to 660.300 shall be reimbursed to the in-home services provider agency.

660.425. HOME SERVICES PROVIDERS TAX IMPOSED, DEFINITIONS. — 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon in-home services providers for the privilege of providing in-home services [under chapter 208, RSMo]. The tax is imposed upon payments received by an in-home services provider for the provision of in-home services [under chapter 208, RSMo].

2. For purposes of sections 660.425 to 660.465, the following terms shall mean:

(1) "Engaging in the business of providing in-home services", all payments received by an in-home services provider for the provision of in-home services [under chapter 208, RSMo];

(2) "In-home services", homemaker services, personal care services, chore services, respite services, consumer-directed services, and services, when provided in the individual's home and under a plan of care created by a physician, necessary to keep children out of hospitals. "In-home services" shall not include home health services as defined by federal and state law;

(3) "In-home services provider", any provider or vendor, as defined in section 208.900, RSMo, of compensated in-home services [under chapter 208, RSMo], and under a provider agreement or contracted with the department of social services or the department of health and senior services.

660.465. EXPIRATION DATE. — 1. The in-home services tax required by sections 660.425 to 660.465 shall expire:

(1) Ninety days after any one or more of the following conditions are met:

(a) The aggregate in-home services fee as appropriated by the general assembly paid to in-home services providers for in-home services provided [under chapter 208, RSMo,] is less than the fiscal year 2010 in-home services fees reimbursement amount; or

(b) The formula used to calculate the reimbursement as appropriated by the general assembly for in-home services provided is changed resulting in lower reimbursement to in-home services providers in the aggregate than provided in fiscal year 2010; or

(2) September 1, [2011] **2012**.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection.

2. Sections 660.425 to 660.465 shall expire on September 1, [2011] **2012**.

Approved June 25, 2010

This page intentionally left blank.

HB 1741 [HB 1741]

Changes the laws regarding a meeting of a board of directors or the executive committee of a corporation

AN ACT to repeal section 351.340, RSMo, and to enact in lieu thereof one new section relating to board meetings of corporations.

Vetoed 7-14-10

HB 1831 [SCS HCS HB 1831]

Allows a school district, after ten years, to sell as surplus any real property that has been donated to it if the donor refuses the district's offer to return it

AN ACT to amend chapter 177, RSMo, by adding thereto one new section relating to real property donated to school districts.

Vetoed 7-14-10

HB 1903 [SCS HCS HB 1903]

Creates the Federal Budget Stabilization Extension Fund and the Race to the Top Fund to receive moneys from any legislation enacted by the 111th United States Congress

AN ACT to repeal section 160.254, RSMo, and to enact in lieu thereof three new sections relating to funds established in the state treasury to receive federal funds, with an emergency clause.

Vetoed 7-14-10

HB 2317 [SS SCS HB 2317]

Requires each member of the General Assembly to be provided with a key which accesses the State Capitol dome and authorizes the Governor to convey certain state property

AN ACT to amend chapter 8, RSMo, by adding thereto twelve new sections relating to state properties and the conveyance thereof.

Vetoed 7-14-10

SB 777 [HCS SCS SB 777]**Allows for the sale of certain financial products and plans associated with certain loan transactions**

AN ACT to repeal sections 339.503, 362.111, 375.1152, 375.1155, 375.1255, 408.052, 408.140, 408.233, and 408.300, RSMo, and to enact in lieu thereof twelve new sections relating to the sale of certain financial products and plans associated with certain loan transactions, with penalty provisions for a certain section.

Vetoed 7-14-10

PROPOSED REFERENDUM - AUGUST 3, 2010

PROPOSITION C. — (Proposed by the 95th General Assembly, Second Regular Session)
SS SCS HCS HB 1764)

Official Ballot Title:

Shall the Missouri Statutes be amended to:

- Deny the government authority to penalize citizens for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful healthcare services?
- Modify laws regarding the liquidation of certain domestic insurance companies?

It is estimated this proposal will have no immediate costs or savings to state or local governmental entities. However, because of the uncertain interaction of the proposal with implementation of the federal Patient Protection and Affordable Care Act, future costs to state governmental entities are unknown.

Fair Ballot Language:

A “yes” vote will amend Missouri law to deny the government authority to penalize citizens for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful healthcare services. The amendment will also modify laws regarding the liquidation of certain domestic insurance companies.

A “no” vote will not change the current Missouri law regarding private health insurance, lawful healthcare services, and the liquidation of certain domestic insurance companies.

If passed, this measure will have no impact on taxes.

(Revisor's Note: See text for H.B. 1764 on page 442.)

This page intentionally left blank.

HOUSE CONCURRENT RESOLUTION NO. 1 [HCR 1]

BE IT RESOLVED, by the House of Representatives of the Ninety-fifth General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 7:00 p.m., Wednesday, January 20, 2010, to receive a message from His Excellency, the Honorable Jeremiah W. (Jay) Nixon, Governor of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Governor of the State of Missouri and inform His Excellency that the House of Representatives and Senate of the Ninety-fifth General Assembly, Second Regular Session, are now organized and ready for business and to receive any message or communication that His Excellency may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 10 [HCR 2]

BE IT RESOLVED, by the House of Representatives of the Ninety-fifth General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Wednesday, February 3, 2010, to receive a message from His Honor Chief Justice Ray Price, the Chief Justice of the Supreme Court of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Chief Justice of the Supreme Court of the State of Missouri and inform His Honor that the House of Representatives and the Senate of the Ninety-fifth General Assembly, Second Regular Session, are now organized and ready for business and to receive any message or communication that His Honor may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 38 [HCR 38]

Whereas, unfunded federal mandates place unreasonable demands on limited state resources; and

Whereas, the federal government has continuously exhibited a lack of understanding and regard to states who are required by their respective constitutions to balance spending with resources; and

Whereas, the continuous imposition of these mandates will place the State of Missouri in a position of either funding federal requirements with limited resources, thus causing reductions to other state services, or they will impede the state from drawing down federal funds for currently enacted programs:

Now, therefore, be it resolved that the members of the House of Representatives of the Ninety-fifth General Assembly, Second Regular Session, the Senate concurring therein, hereby urgently request the United States Congress to cease and desist from imposing continuous unfunded mandates on states; and

Be it further resolved that the General Assembly urgently requests that the Governor of the State of Missouri and the Missouri Congressional delegation resist continued funding requirements for the Missouri budget; and

Be it further resolved that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for President Barack Obama, Vice President Joe Biden, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, the Minority Leader of the United States House of Representatives, the Minority Leader of the United States Senate, the Minority Leader of the United States House of Representatives, the Minority Leader of the United States Senate, Governor Jay Nixon, and each member of the Missouri Congressional delegation.

HOUSE CONCURRENT RESOLUTION NO. 46 [HCR 46]

Whereas, energy policy and regulation are vital to Missouri's economy and which have a direct impact on Missouri families, farmers, businesses, and employees; and

Whereas, on December 7, 2009, the Administrator for the Environmental Protection Agency (EPA) signed two distinct findings regarding greenhouse gases under Section 202(c) of the federal Clean Air Act:

(1) Endangerment Finding: the Administrator finds that the current and projected concentrations of the six key well-mixed greenhouse gases - carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆) - in the atmosphere threaten the public health and welfare of current and future generations;

(2) Cause and Contribute Finding: the administrator finds that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare; and

Whereas, this finding by the EPA, if implemented, will cost Missouri jobs and raise electric rates on families, farmers, businesses, and employees; and

Whereas, the people of Missouri are dependent on coal for their electricity, obtaining approximately 80 - 85% of electrical energy from coal for their homes, farms, and businesses. This heavy dependence on coal is common throughout the Midwestern states; and

Whereas, Missouri's electric rates consistently rank among the lowest cost states in the union, and is one of only three states in the United States to see electricity rates drop in the years 2000 to 2008, and by the largest percentage (6%), making Missouri attractive to business and industry, creating jobs, and making Missouri a low-cost place to live; and

Whereas, the technology of the 21st Century is providing cleaner yet still affordable baseload electrical generation from coal, including Super Critical Pulverized Coal (Prairie State in Illinois) and Ultra Supercritical Pulverized Coal (Turk in Arkansas) as well as developing options for coal to liquids, coal to gas, and carbon sequestration; and

Whereas, the focus in Missouri and throughout the coal-dependent Midwest should be on how to use technology to burn coal more cleanly and move towards cleaner burning options like

Ultra Supercritical Pulverized Coal, rather than a punitive system that drives up costs, leads to lower baseload energy production, and inhibits or prevents progress on a fuel that the United States has in abundance within its own borders:

Now, therefore, be it resolved that the members of the House of Representatives of the Ninety-fifth General Assembly, Second Regular Session, the Senate concurring therein, hereby:

(1) Request that our elected statewide officials express their opposition to the further acceptance or approval of the Environmental Protection Agency formal endangerment finding on greenhouse gases;

(2) Convey that it is not well taken by and harmful to the State of Missouri;

(3) Urge the Environmental Protection Agency to rescind their recent formal endangerment finding on greenhouse gases; and

Be it further resolved that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for Governor Jay Nixon, President Barack Obama, President of the United States Senate, Speaker of the United States House of Representatives, the Administrator of the Environmental Protection Agency, and each member of the Missouri Congressional delegation.

This page intentionally left blank.

SENATE CONCURRENT RESOLUTION NO. 31 [SCR 31]

WHEREAS, international education is a critical component of higher education in Missouri and contributes to the economy of the state and to a diverse college environment, enhancing both academic and extra-curricular programs; and

WHEREAS, international education is critical to promoting a broadened worldview and therefore preparing Missourians for life and work in the global economy and creating a diverse academic environment by exchanging scholars and students between countries and building the foundation for future business success; and

WHEREAS, higher education should emphasize international education, including foreign language instruction and study abroad, in order to ensure graduates have the cross-cultural skills necessary to function effectively in the global workforce; and

WHEREAS, the Missouri General Assembly recognizes the social importance of cultural awareness, the need to promote study-abroad programs that serve Missouri students and the economic significance of international students who come to Missouri for educational opportunities provided by the state; and

WHEREAS, Missouri public and independent institutions of higher education and the Missouri Department of Higher Education, recognizing the importance of internationalizing curriculum and experiential learning, collaboratively established the Study Missouri Consortium; and

WHEREAS, the Study Missouri Consortium functions to support and enhance the capacity of member institutions, individually and collectively, to foster international experiences and cross-cultural competence among students, faculty, and citizens of Missouri and to facilitate communication, cooperation, and expansion of international educational activities and exchanges in the State of Missouri; and

WHEREAS, the net contribution to our state's economy by international students and their families was estimated at over \$270 million in 2008-2009 and a strategy at the state and national level is needed to ensure America's status as a magnet for international students and scholars; and

WHEREAS, the economy of Missouri is inextricably tied to the rest of the world and state economic development depends upon a deliberate strategic development plan that includes recognition of the role of international education in all its facets; and

WHEREAS, heightened cultural awareness is critical to national interests and is a critical component of foreign policy, and Missouri's colleges and universities play a key role in developing foreign language and foreign-area expertise by promoting language study, study abroad, and faculty exchange programs; and

WHEREAS, the United States' national security and economic interests and competitiveness depend significantly on the country's ability to provide future leaders with the best education possible:

NOW, THEREFORE, BE IT RESOLVED by the members of the Missouri Senate, Ninety-fifth General Assembly, Second Regular Session, the House of Representatives concurring therein, that international education is an essential component of the future of the State of Missouri and the Missouri General Assembly supports and encourages students and faculty to promote international education as a part of curricular and extra-curricular life at the state's colleges and universities to ensure that students and future leaders are prepared to meet the challenges of a global society; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for each institution of higher education in this state.

SENATE CONCURRENT RESOLUTION NO. 33 [SCR 33]

WHEREAS, a strong national economy and the financial well-being of millions of citizens in Missouri and across America are dependent upon the continued financial vitality of our small businesses and family farms; and

WHEREAS, the economic viability of our small businesses and family farms is directly tied to the ability of our state and the nation's community depository financial institutions to provide needed credit and to permit their borrowers to restructure existing debt in a responsible and reasonable manner; and

WHEREAS, problems which now pervade our economy but are expected to be transitory in nature have placed severe financial pressure on a number of small businesses and family farms and have, in turn, resulted in escalating levels of loan defaults and depressed property values; and

WHEREAS, these economic difficulties combined with a harsher examination environment and increases in required capitalization levels by regulators have made it extremely difficult, and often impossible, for community depository institutions to maintain their capital at levels currently mandated by their regulators without severely limiting the ability of many of these community depository institutions to continue to make the same levels of credit available as prior to this period of economic distress; and

WHEREAS, the foregoing have had and are continuing to have spiraling downward effects on the ability of many small businesses and family farms to remain viable employers and strong components of our state's and the nation's economies; and

WHEREAS, under difficult economic conditions which occurred in the late 1980's, federal and state agencies that regulate community depository institutions developed appropriate capital forbearance, trouble debt restructuring accounting practices, and other policies to assist those institutions that were well-managed; and

WHEREAS, these measures were undertaken to ensure that these community depository institutions remained viable sources of financial strength for their communities and to assist them in providing borrowers reasonable and responsible allocations of credit so as to enable deserving borrowers to weather temporary economic pressures, maintain access to reliable sources of credit, and remain as important sources of employment and economic strength, and

WHEREAS, members of Congress are increasingly recognizing the need for regulatory forbearance to support community depository institution lending throughout our country, as well as to support the small business and family farm customers of community depository institutions. To date, this recognition has been in the form of numerous Congressional hearings and meetings with community depository institutions and their federal depository institution regulators, as well as in the form of the recent House Resolution introduced by Representative Coffman (CO-R); and originally co-sponsored by Representatives Perlmutter (CO-D) and Luetkemeyer (MO-R); the letter to the federal depository institution regulators from Representatives Frank (MA-D) and Minnick (ID-D); and the letter to the federal depository institution regulators from Representative Skelton (MO-D) all calling for regulatory forbearance, temperance, and measured oversight of community depository institutions so as to not unduly restrict access to credit:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby encourage the Congress of the United States to urge the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve Board, and all other agencies, state and federal, that regulate the conduct and affairs of community depository institutions, to develop appropriate policies that will:

(1) Permit well-managed community depository institutions to temporarily maintain capital at levels less than that currently required, conditioned upon the submission and regulatory approval of an appropriate plan to restore capital levels by a date certain as determined by the appropriate agencies; and

(2) Permit well-managed community depository institutions to temporarily account for troubled debt restructuring in a manner which allows a loan to continue to be carried on the institution's books without loss recognition if the loan is formally restructured in a manner so that it is probable that the borrower can repay the loan under the new terms and that the total future cash payments at least equal the loan amount on the institution's books; and

(3) Ensure that field examiners are not inappropriately classifying loans based on judgments about, or relationship of, various types of loans, to currently stressed sectors of the economy apart from the ability of the loans to show likelihood of repayment based on positive cash flows, ample amounts of collateral, and other mitigating factors; and

(4) Include such additional temporary accommodations for well-managed community depository institutions as the agencies determine are appropriate, including regulatory forbearance similar to that provided in the 1980's, to assist those institutions in remaining vital sources of financial strength for their communities, while maintaining needed standards to assure the continued financial integrity of those institutions and communities.

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the members of the Missouri congressional delegation.

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 35 & 32 [SCS SCR 35 & 32]**

Relating to the disapproval of the Missouri State Tax Commission's
recommendations regarding the value for each grade of agricultural
and horticultural land based on productive capability.

WHEREAS, the State Tax Commission is required pursuant to section 137.021 of the Revised Statutes of Missouri to biennially promulgate by regulation a value based upon productive capability for each grade of agricultural and horticultural land; and

WHEREAS, on December 21, 2009, the State Tax Commission filed with the Secretary of State a proposed amendment to 12 CSR 30-4.010 relating to agricultural land productive values; and

WHEREAS, the proposed amendment to 12 CSR 30-4.010 increases the values of various agricultural land grades beyond the level which the General Assembly considers to be fair and reasonable; and

WHEREAS, section 137.021 of the Revised Statutes of Missouri permits the General Assembly to disapprove, within the first sixty days of the regular session, the promulgated agricultural values:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, Second Regular Session, the House of Representatives concurring therein, that the members of the General Assembly disapprove of the new agricultural land productive values contained in the proposed amendment to 12 CSR 30-4.010 and that the State Tax Commission shall continue to use values set forth in the most recent preceding regulation promulgated under section 137.021 of the Revised Statutes of Missouri; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for Governor Jay Nixon and the Missouri State Tax Commission.

**HOUSE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 36 [HCS SCR 36]**

WHEREAS, the Constitution of the United States vests the ultimate responsibility to approve or disapprove constitutional amendments with the people, as represented by their elected state legislatures:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby urge Congress to adopt a balanced budget amendment to the United States Constitution that requires a balance in the projected revenues and expenditures of the United States federal government when preparing and approving the annual federal budget; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and members of the Missouri congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 51 [SCR 51]

WHEREAS, the State of Missouri contains 553 miles of the Missouri River, which borders 23 Missouri counties and over 50 Missouri communities, making it one of the State's greatest natural resources; and

WHEREAS, the General Assembly recognizes that eighteen power plants, which have the capacity to generate over 11,000 megawatts of electricity, draw cooling water from the lower Missouri River basin; and

WHEREAS, over half of Missouri citizens get their drinking water from the Missouri River and its alluvium, and the State of Missouri has constructed infrastructure to support water supply in the lower Missouri River with the understanding that reliable navigation flows would be maintained in the future; and

WHEREAS, Missouri is the origin or destination for over one-half of all commercial tonnage shipments on the Missouri River, with the Port of St. Louis, just downstream from

where the Missouri enters the Mississippi River, being one of the largest inland ports in the United States; and

WHEREAS, the Missouri River is a vital link in the State of Missouri's total transportation system and the General Assembly wishes to maximize this valuable asset in order to move freight and to support our state's economy; and

WHEREAS, barge transport allows for significant economic benefits and cost savings, since one barge can transport the same amount of freight as 16 rail cars or 70 trucks; and

WHEREAS, river transportation is the most environmentally friendly form of transporting goods and commodities, creating almost no noise pollution and emitting 35 to 60 percent fewer pollutants than either trucks or trains; and

WHEREAS, barges are also the most fuel efficient method of freight transport; barges can move one ton of cargo 576 miles per gallon of fuel, compared to 413 miles per gallon of fuel for rail cars and only 155 miles per gallon of fuel for trucks; and

WHEREAS, the General Assembly recognizes that the State of Missouri is investing more of its resources to develop and improve public ports as intermodal connectors in the state, including those on the Missouri River; and

WHEREAS, in the Flood Control Act of 1944, as amended, the United States Congress authorized the construction of the Missouri River Mainstem Reservoir System for the federal purposes of flood control and navigation, with other authorized purposes including irrigation, power, water supply, water quality and recreation; and

WHEREAS, the June 4, 2003 and August 16, 2005 decisions of the United States Court of Appeals of the Eighth Circuit confirmed that navigation and flood control are the two dominant functions of the Flood Control Act of 1944; and

WHEREAS, the Missouri River is operated in accordance with the updated Missouri River Master Water Control Manual, which contains the management plan for the River and was adopted by the United States Army Corps of Engineers in 2004; and

WHEREAS, the Missouri General Assembly recognizes that the United States Army Corps of Engineers utilized extensive public processes to complete the 2004 Missouri River Master Water Control Manual and worked to balance the needs and desires of many competing stakeholder groups in establishing the Manual's navigation guidelines; and

WHEREAS, the 2004 Missouri River Master Water Control Manual was finalized after 15 years of debate and litigation and after the expenditure of over \$35 million in federal funds; and

WHEREAS, the 2004 Missouri River Master Water Control Manual reduced the length of the navigation season, shifting a large amount of water away from navigation and other downstream uses of the Missouri River to benefit upstream uses, such as reservoir recreation; and

WHEREAS, despite the opposition of Missouri's congressional delegation, the Omnibus Appropriations Act of 2009 authorized the United States Army Corps of Engineers to conduct the Missouri River Authorized Purposes Study at a total cost of \$25,000,000, which will review the original authorized purposes from the Flood Control Act of 1944 and will determine if changes to those purposes and existing Federal water resources infrastructure may be warranted; and

WHEREAS, the United States Army Corps of Engineers began conducting the Missouri River Authorized Purposes Study in October of 2009; and

WHEREAS, the scope of the Missouri River Authorized Purposes Study, as defined by the United States Army Corps of Engineers, exceeds the scope of the Congressional authority for the study, in that the Corps intends to develop recommendations and alternatives to the authorized purposes that Congress did not request; and

WHEREAS, federal taxpayers' dollars should not be wasted to develop recommendations and alternatives that Congress did not authorize; and

WHEREAS, the Consolidated Appropriations Act of 2010 authorized the United States Department of Transportation to conduct an independent and comprehensive study and analysis at a total cost of \$2,000,000 to supplement the Missouri River Authorized Purposes Study and to develop a comprehensive understanding of the full value of river flow support to users in the Mississippi and Missouri Rivers; and

WHEREAS, the Consolidated Appropriations Act of 2010 also authorized the Missouri Department of Transportation to conduct a Missouri River Freight Corridor Study at a total cost of \$900,000, which will examine how to increase freight tonnage moved on the Missouri River, long-term development opportunities along the Missouri River corridor and ways to better use Missouri waterways to relieve infrastructure stress and congestion; and

WHEREAS, at times the Missouri River provides over sixty percent of the water in the Mississippi River that passes St. Louis; and

WHEREAS, if the navigability of the Mississippi River is negatively impacted between the confluence of the Missouri and Mississippi Rivers and the confluence of the Ohio and Mississippi Rivers, barges would no longer be able to travel from the far northern portions of the Mississippi River to the Gulf of Mexico, which would devastate the barge industry, the agricultural industry and the transportation system as a whole; and

WHEREAS, it is imperative that the Missouri River Authorized Purposes Study consider Mississippi River navigation when evaluating if changes to the authorized purposes are warranted:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby express their continued opposition to the Missouri River Authorized Purposes Study; and

BE IT FURTHER RESOLVED that the members hereby express their opposition to the alteration of the Missouri River's primary purposes of navigation and flood control; and

BE IT FURTHER RESOLVED that the members hereby urge the Missouri's congressional delegation to actively oppose funding the Missouri River Authorized Purposes Study in future fiscal years; and

BE IT FURTHER RESOLVED that the members hereby urge the United States Army Corps of Engineers to narrow the scope of the Missouri River Authorized Purposes Study to make it consistent with Congressional authority; and

BE IT FURTHER RESOLVED that the members hereby urge the United States Army Corps of Engineers to include Mississippi River navigation in any evaluation of the authorized purposes under the Missouri River Authorized Purposes Study; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the United States Army Corps of Engineers and the members of the Missouri congressional delegation.

**HOUSE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 54 [HCS SCR 54]**

WHEREAS, revenues in Missouri continue to fall well below estimates prepared by the state, forcing the governor to cut funds already appropriated by the legislature in order to balance the budget; and

WHEREAS, at the same time revenues have declined, state government has grown over the years, producing unnecessary programs and inefficient allocations of funds; and

WHEREAS, the Missouri General Assembly through careful planning must identify inefficient and unnecessary areas of government spending in order to ensure the state's resources are being put to a use that most benefits the citizens of this state:

NOW THEREFORE BE IT RESOLVED by the members of the Missouri Senate, Ninety-fifth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby establish a Joint Interim Committee on Reducing the Size of State Government; and

BE IT FURTHER RESOLVED that the Committee shall be charged with the following:

1. Examining each department, and agency within each department, to determine programs or bureaucracies within such department that should be eliminated or reduced; and
2. Developing recommendations, strategies and plans for:
 - (1) Reducing the size of state government;
 - (2) Identifying inefficient and unnecessary uses of state funds;
 - (3) Addressing budget shortfalls; and
 - (4) Other areas that the Committee determines are vital to reducing the size of state government; and
3. Reporting its recommendations to the House Budget Committee and the Senate Appropriations Committee by Dec. 31, 2010; and

4. Such other matters as the Joint Interim Committee may deem necessary in order to determine the proper course of future legislative and budgetary action regarding these issues; and

BE IT FURTHER RESOLVED that the Committee shall be composed of the members of the current House Budget Committee and the members of the current Senate Appropriations Committee and shall be co-chaired by the House Budget Committee Chair, or his or her designee, and the Senate Appropriations Chair, or his or her designee. The Commissioner of Administration and the State Budget Director, or their designees, shall serve as ex officio members of the Committee; and

BE IT FURTHER RESOLVED that the Joint Interim Committee is authorized to function during the legislative interim between the Second Regular Session of the Ninety-fifth General Assembly through December 31, 2010; and

BE IT FURTHER RESOLVED that the Joint Interim Committee may solicit input and information necessary to fulfill its obligations, including, but not limited to, soliciting input and information from any state department or agency the Joint Interim Committee deems relevant, political subdivisions of this State, and the general public; and

BE IT FURTHER RESOLVED that the staffs of Senate Appropriations, Senate Research, House Appropriations, House Research, and the Joint Committee on Legislative Research shall provide such legal, research, clerical, technical, and bill drafting services as the Joint Interim Committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the Joint Interim Committee, its members, and any staff assigned to the Joint Interim Committee incurred by the Joint Interim Committee shall be paid by the Joint Contingent Fund.

**HOUSE COMMITTEE SUBSTITUTE FOR
SENATE CONCURRENT RESOLUTION NO. 55 [HCS SCR 55]**

WHEREAS, our nation is fortunate to possess a wealth of natural resources and we have a long history of stewardship of these resources; and

WHEREAS, just as a farmer carefully tends the land on which his survival depends, many of our country's best resource stewards are those who use the resource and for whom the resource holds intrinsic value for sustenance, survival, or cultural tradition; and

WHEREAS, recreational fishermen and women are prime examples of responsible resource stewards, as they place an extremely high value on the quality and existence of our nation's coastal waters. Recreational fishermen and women respect our country's marine habitats because they know that in order for these ecosystems to sustain the aquatic life and natural wonder for which they are sought, these resources must be protected and carefully managed; and

WHEREAS, fishing as a pastime in our country boasts strong support, with 93 percent of Americans indicating they support legal recreational fishing, and it is an activity that is enjoyed by Americans across all age, gender, socio-economic, and ethnic distinctions; and

WHEREAS, recreational fishermen and women contribute significantly to the national and regional economies through equipment and gear purchases, fuel, lodging, and food, with total related sportfishing expenditures exceeding \$125 billion and supporting over 1 million jobs; and

WHEREAS, President Obama created an Interagency Ocean Policy Task Force in June of 2009 charged with recommending a national policy to ensure the protection, maintenance, and restoration of oceans, our coasts, and the Great Lakes; and

WHEREAS, the Task Force has issued two reports since its creation, the Interim Report of the Interagency Ocean Policy Task Force and the Interim Framework for Effective Coastal and Marine Spatial Planning, however the Task Force has failed to expressly recognize responsibly-regulated recreational fishing as a national priority for the oceans and Great Lakes in either of these reports; and

WHEREAS, without its recognition as a national priority, recreational fishing opportunities in the oceans and Great Lakes could become more limited, curtailed, or even potentially eliminated:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby strenuously urge President Obama to include recreational fishing and boating in the oceans and Great Lakes as national priorities and ensure and promote recreational fishing and access to public waters in the Interagency Ocean Policy Task Force's concluding report and any forthcoming Executive Order based upon the report; and

BE IT FURTHER RESOLVED that the members strongly urge the members of Congress to take any measure within their power to mitigate or overturn any Executive Order issued to implement recommendations by the Interagency Ocean Policy Task Force if such recommendations do not include responsibly-regulated recreational fishing and boating as

national priorities for oceans, our coasts, and the Great Lakes and if such recommendations do not ensue and promote recreational fishing and access to public waters; and

BE IT FURTHER RESOLVED that this action should in no way be construed to represent support for modifying the congressionally authorized project purposes of the Flood Control Act of 1944; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for President Obama, the Chairperson of the Interagency Ocean Policy Task Force, the Speaker of the United States House of Representatives, the President of the United States Senate, and members of the Missouri congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 56 [SCR 56]

WHEREAS, the United States Environmental Protection Agency (EPA) will shortly begin regulating greenhouse gas emissions under the federal Clean Air Act; and

WHEREAS, as a result of EPA's action, major new sources of electric generation will be mandated to obtain Prevention of Significant Deterioration (PSD) permits setting forth Best Available Control Technology requirements for greenhouse gases; and

WHEREAS, major uncertainty exists because trial technologies, such as carbon capture and sequestration or integrated gasification combined cycle power plants, which hold significant prospect to reduce greenhouse gas emissions, are still years away from being proven to be economically practicable or commercially available; and

WHEREAS, this uncertainty could paralyze the long-term planning and development of new electric generating units in the state at a time when the state faces a critical void in the coming years in the electric power needed to support economic recovery and growth; and

WHEREAS, highly efficient power technologies, such as super-critical and ultra super-critical coal-fired electric generating units, represent a significant advancement over earlier generation coal units in terms of efficient use of coal and in reductions of emissions, and are compatible with carbon capture and sequestration systems when they become commercially viable, which will lead to even further greenhouse gas reductions; and

WHEREAS, these super-critical technologies are already demonstrated to serve the dual purpose of reducing the overall emissions profile of the electricity generation unit while providing efficient, affordable, and available power today and into the future; and

WHEREAS, it is in the state's interest to support the use of these advanced and available technologies that take advantage of existing coal reserves to offer the state significant environmental and economic advantages, rather than delay development of critically needed baseload electricity supply or resort fully to less efficient or more expensive technologies:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby urge the Department of Natural Resources, in issuing PSD permits for new conventional coal-fueled electric generating units, and consistent with otherwise applicable law, to fully consider:

(1) The need to act expeditiously in accordance with the state's need to develop new electric generation; and

(2) The use of commercially available technologies that are designed to be as efficient as is economically practicable, including advanced super-critical pulverized coal, ultra super-critical pulverized coal, and that are designed to be carbon capture and sequestration-compatible, as potential Best Available Control Technology; and

BE IT FURTHER RESOLVED that this resolution does not amend any state law to which the Department of Natural Resources is subject in the PSD process, and shall be interpreted to be consistent with any requirements of such state or federal law; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for Governor Jay Nixon and the Director of the Department of Natural Resources.

LAWS OF MISSOURI

**Passed during the
First Extraordinary Session**

of the

**NINETY-FIFTH
GENERAL ASSEMBLY**

2010

This page intentionally left blank.

HB 1 [CCS SCS HCS HB 1]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding public retirement systems

AN ACT to amend chapters 104 and 476, RSMo, by adding thereto three new sections relating to retirement.

SECTION

- A. Enacting clause.
- 104.1091. Normal retirement eligibility for certain state employees hired beginning January 1, 2011 — early retirement annuities — member contributions, rate — retiree's life annuity, options — applicability.
- 476.521. Eligibility requirements for persons first becoming a judge beginning January 1, 2011 — contributions, rate, contributions by state — change in contribution rate, when — ineligible for other state retirement compensation, when.
- 476.529. Alternate computation of retirement compensation — options, beneficiary designation

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 104 and 476, RSMo, are amended by adding thereto three new sections, to be known as sections 104.1091, 476.521, and 476.529, to read as follows:

104.1091. NORMAL RETIREMENT ELIGIBILITY FOR CERTAIN STATE EMPLOYEES HIRED BEGINNING JANUARY 1, 2011 — EARLY RETIREMENT ANNUITIES — MEMBER CONTRIBUTIONS, RATE — RETIREE'S LIFE ANNUITY, OPTIONS — APPLICABILITY. — 1. Notwithstanding any provision of the year 2000 plan to the contrary, each person who first becomes an employee on or after January 1, 2011, shall be a member of the year 2000 plan subject to the provisions of this section.

2. A member's normal retirement eligibility shall be as follows:

(1) The member's attainment of at least age sixty-seven and the completion of at least ten years of credited service; or the member's attainment of at least age fifty-five with the sum of the member's age and credited service equaling at least ninety; or, in the case of a member who is serving as a uniformed member of the highway patrol and subject to the mandatory retirement provisions of section 104.081, such member's attainment of at least age sixty or, the attainment of at least age fifty-five with ten years of credited service;

(2) For members of the general assembly, the member's attainment of at least age sixty-two and the completion of at least three full biennial assemblies; or the member's attainment of at least age fifty-five with the sum of the member's age and credited service equaling at least ninety;

(3) For statewide elected officials, the official's attainment of at least age sixty-two and the completion of at least four years of credited service; or the official's attainment of at least age fifty-five with the sum of the official's age and credited service equaling at least ninety.

3. A vested former member's normal retirement eligibility shall be based on the attainment of at least age sixty-seven and the completion of at least ten years of credited service.

4. A temporary annuity paid pursuant to subsection 4 of section 104.1024 shall be payable if the member has attained at least age fifty-five with the sum of the member's age and credited service equaling at least ninety; or in the case of a member who is serving as a uniformed member of the highway patrol and subject to the mandatory retirement provisions of section 104.081, the temporary annuity shall be payable if the

member has attained at least age sixty, or at least age fifty-five with ten years of credited service.

5. A member, other than a member who is serving as a uniformed member of the highway patrol and subject to the mandatory retirement provisions of section 104.081, shall be eligible for an early retirement annuity upon the attainment of at least age sixty-two and the completion of at least ten years of credited service. A vested former member shall not be eligible for early retirement.

6. The provisions of subsection 6 of section 104.1021 and section 104.344 as applied pursuant to subsection 7 of section 104.1021 and section 104.1090 shall not apply to members covered by this section.

7. The minimum credited service requirements of five years contained in sections 104.1018, 104.1030, 104.1036, and 104.1051 shall be ten years for members covered by this section. The normal and early retirement eligibility requirements in this section shall apply for purposes of administering section 104.1087.

8. A member shall be required to contribute four percent of the member's pay to the retirement system, which shall stand to the member's credit in his or her individual account with the system, together with investment credits thereon, for purposes of funding retirement benefits payable under the year 2000 plan, subject to the following provisions:

(1) The state of Missouri employer, pursuant to the provisions of 26 U.S.C. section 414(h)(2), shall pick up and pay the contributions that would otherwise be payable by the member under this section. The contributions so picked up shall be treated as employer contributions for purposes of determining the member's pay that is includable in the member's gross income for federal income tax purposes;

(2) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of pay to a member. A deduction shall be made from each member's pay equal to the amount of the member's contributions picked up by the employer. This deduction, however, shall not reduce the member's pay for purposes of computing benefits under the retirement system pursuant to this chapter;

(3) Member contributions so picked up shall be credited to a separate account within the member's individual account so that the amounts contributed pursuant to this section may be distinguished from the amounts contributed on an after-tax basis;

(4) The contributions, although designated as employee contributions, shall be paid by the employer in lieu of the contributions by the member. The member shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system;

(5) Interest shall be credited annually on June 30 based on the value in the account as of July 1 of the immediately preceding year at a rate of four percent. Interest credits shall cease upon termination of employment if the member is not a vested former member. Otherwise, interest credits shall cease upon retirement;

(6) A vested former member or a former member who is not vested may request a refund of his or her contributions and interest credited thereon. If such member is married at the time of such request, such request shall not be processed without consent from the spouse. Such member is not eligible to request a refund if such member's retirement benefit is subject to a division of benefit order pursuant to section 104.1051. Such refund shall be paid by the system after ninety days from the date of termination of employment or the request, whichever is later, and shall include all contributions made to any retirement plan administered by the system and interest credited thereon. A vested former member may not request a refund after such member becomes eligible for normal retirement. A vested former member or a former member who is not vested who receives a refund shall forfeit all the member's credited service and future rights to receive benefits from the system and shall not be eligible to receive any long term disability benefits;

provided that any member or vested former member receiving long term disability benefits shall not be eligible for a refund. If such member subsequently becomes an employee and works continuously for at least one year, the credited service previously forfeited shall be restored if the member returns to the system the amount previously refunded plus interest at a rate established by the board;

(7) The beneficiary of any member who made contributions shall receive a refund upon the member's death equal to the amount, if any, of such contributions less any retirement benefits received by the member unless an annuity is payable to a survivor or beneficiary as a result of the member's death. In that event, the beneficiary of the survivor or beneficiary who received the annuity shall receive a refund upon the survivor's or beneficiary's death equal to the amount, if any, of the member's contributions less any annuity amounts received by the member and the survivor or beneficiary.

9. The employee contribution rate, the benefits provided under the year 2000 plan to members covered under this section, and any other provision of the year 2000 plan with regard to members covered under this section may be altered, amended, increased, decreased, or repealed, but only with respect to services rendered by the member after the effective date of such alteration, amendment, increase, decrease, or repeal, or, with respect to interest credits, for periods of time after the effective date of such alteration, amendment, increase, decrease, or repeal.

10. For purposes of members covered by this section, the options under section 104.1027 shall be as follows:

Option 1. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be eighty-eight and one half percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-seven years, an increase of three-tenths of one percent for each year the retiree's age is younger than age sixty-seven years; and if the beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of three-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of three-tenths of one percent for each year of age difference; provided, after all adjustments the option 1 percent cannot exceed ninety-four and one quarter percent. Upon the retiree's death, fifty percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 2. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be eighty-one percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-seven years, an increase of four-tenths of one percent for each year the retiree's age is younger than sixty-seven years; and if the beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of five-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of five-tenths of one percent for each year of age difference; provided, after all adjustments the option 2 percent cannot exceed eighty-seven and three quarter percent. Upon the retiree's death one hundred percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 3. A retiree's life annuity shall be reduced to ninety-three percent of the annuity otherwise payable. If the retiree dies before having received one hundred twenty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred twenty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid as provided under subsection 3 of section 104.620. If the

beneficiary survives the retiree but dies before receiving the remainder of such one hundred twenty monthly payments, the present value of the remaining annuity payments shall be paid as provided under subsection 3 of section 104.620.

Option 4. A retiree's life annuity shall be reduced to eighty-six percent of the annuity otherwise payable. If the retiree dies before having received one hundred eighty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred eighty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid as provided under subsection 3 of section 104.620. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred eighty monthly payments, the present value of the remaining annuity payments shall be paid as provided under subsection 3 of section 104.620.

11. The provisions of subsection 6 of section 104.1024 shall not apply to members covered by this section.

476.521. ELIGIBILITY REQUIREMENTS FOR PERSONS FIRST BECOMING A JUDGE BEGINNING JANUARY 1, 2011 — CONTRIBUTIONS, RATE, CONTRIBUTIONS BY STATE — CHANGE IN CONTRIBUTION RATE, WHEN — INELIGIBLE FOR OTHER STATE RETIREMENT COMPENSATION, WHEN. — 1. Notwithstanding any provision of chapter 476 to the contrary, each person who first becomes a judge on or after January 1, 2011, and continues to be a judge may receive benefits as provided in sections 476.445 to 476.688 subject to the provisions of this section.

2. Any person who is at least sixty-seven years of age, has served in this state an aggregate of at least twelve years, continuously or otherwise, as a judge, and ceases to hold office by reason of the expiration of the judge's term, voluntary resignation, or retirement pursuant to the provisions of subsection 2 of section 24 of article V of the Constitution of Missouri may receive benefits as provided in sections 476.515 to 476.565. The twelve-year requirement of this subsection may be fulfilled by service as judge in any of the courts covered, or by service in any combination as judge of such courts, totaling an aggregate of twelve years. Any judge who is at least sixty-seven years of age and who has served less than twelve years and is otherwise qualified under sections 476.515 to 476.565 may retire after reaching age sixty-seven, or thereafter, at a reduced retirement compensation in a sum equal to the proportion of the retirement compensation provided in section 476.530 that his or her period of judicial service bears to twelve years.

3. Any person who is at least sixty-two years of age or older, has served in this state an aggregate of at least twenty years, continuously or otherwise, as a judge, and ceases to hold office by reason of the expiration of the judge's term, voluntary resignation, or retirement pursuant to the provisions of subsection 2 of section 24 of article V of the Constitution of Missouri may receive benefits as provided in sections 476.515 to 476.565. The twenty-year requirement of this subsection may be fulfilled by service as a judge in any of the courts covered, or by service in any combination as judge of such courts, totaling an aggregate of twenty years. Any judge who is at least sixty-two years of age and who has served less than twenty years and is otherwise qualified under sections 476.515 to 476.565 may retire after reaching age sixty-two, at a reduced retirement compensation in a sum equal to the proportion of the retirement compensation provided in section 476.530 that his or her period of judicial service bears to twenty years.

4. All judges under this section required by the provisions of section 26 of article V of the Constitution of Missouri to retire at the age of seventy years shall retire upon reaching that age.

5. The provisions of sections 104.344, 476.524, and 476.690 shall not apply to judges covered by this section.

6. A judge shall be required to contribute four percent of the judge's compensation to the retirement system, which shall stand to the judge's credit in his or her individual account with the system, together with investment credits thereon, for purposes of funding retirement benefits payable as provided in sections 476.515 to 476.565, subject to the following provisions:

(1) The state of Missouri employer, pursuant to the provisions of 26 U.S.C. section 414(h)(2), shall pick up and pay the contributions that would otherwise be payable by the judge under this section. The contributions so picked up shall be treated as employer contributions for purposes of determining the judge's compensation that is includable in the judge's gross income for federal income tax purposes;

(2) Judge contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a judge. A deduction shall be made from each judge's compensation equal to the amount of the judge's contributions picked up by the employer. This deduction, however, shall not reduce the judge's compensation for purposes of computing benefits under the retirement system pursuant to this chapter;

(3) Judge contributions so picked up shall be credited to a separate account within the judge's individual account so that the amounts contributed pursuant to this section may be distinguished from the amounts contributed on an after tax basis;

(4) The contributions, although designated as employee contributions, are being paid by the employer in lieu of the contributions by the judge. The judge shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system;

(5) Interest shall be credited annually on June 30 based on the value in the account as of July 1 of the immediately preceding year at a rate of four percent. Interest credits shall cease upon retirement of the judge;

(6) A judge whose employment is terminated may request a refund of his or her contributions and interest credited thereon. If such judge is married at the time of such request, such request shall not be processed without consent from the spouse. A judge is not eligible to request a refund if the judge's retirement benefit is subject to a division of benefit order pursuant to section 104.312. Such refund shall be paid by the system after ninety days from the date of termination of employment or the request, whichever is later and shall include all contributions made to any retirement plan administered by the system and interest credited thereon. A judge may not request a refund after such judge becomes eligible for retirement benefits under sections 476.515 to 476.565. A judge who receives a refund shall forfeit all the judge's service and future rights to receive benefits from the system and shall not be eligible to receive any long term disability benefits; provided that any judge or former judge receiving long term disability benefits shall not be eligible for a refund. If such judge subsequently becomes a judge and works continuously for at least one year, the service previously forfeited shall be restored if the judge returns to the system the amount previously refunded plus interest at a rate established by the board;

(7) The beneficiary of any judge who made contributions shall receive a refund upon the judge's death equal to the amount, if any, of such contributions less any retirement benefits received by the judge unless an annuity is payable to a survivor or beneficiary as a result of the judge's death. In that event, the beneficiary of the survivor or beneficiary who received the annuity shall receive a refund upon the survivor's or beneficiary's death equal to the amount, if any, of the judge's contributions less any annuity amounts received by the judge and the survivor or beneficiary.

7. The employee contribution rate, the benefits provided under sections 476.515 to 476.565 to judges covered under this section, and any other provision of sections 476.515 to 476.565 with regard to judges covered under this section may be altered, amended,

increased, decreased, or repealed, but only with respect to services rendered by the judge after the effective date of such alteration, amendment, increase, decrease, or repeal, or, with respect to interest credits, for periods of time after the effective date of such alteration, amendment, increase, decrease, or repeal.

8. Any judge who is receiving retirement compensation under section 476.529 or 476.530 who becomes employed as an employee eligible to participate in the closed plan or in the year 2000 plan under chapter 104, shall not receive such retirement compensation for any calendar month in which the retired judge is so employed. Any judge who is receiving retirement compensation under section 476.529 or section 476.530 who subsequently serves as a judge as defined pursuant to subdivision (4) of subsection 1 of section 476.515 shall not receive such retirement compensation for any calendar month in which the retired judge is serving as a judge; except that upon retirement such judge's annuity shall be recalculated to include any additional service or salary accrued based on the judge's subsequent service. A judge who is receiving compensation under section 476.529 or 476.530 may continue to receive such retirement compensation while serving as a senior judge or senior commissioner and shall receive additional credit and salary for such service pursuant to section 476.682.

476.529. ALTERNATE COMPUTATION OF RETIREMENT COMPENSATION — OPTIONS, BENEFICIARY DESIGNATION — 1. In lieu of the retirement compensation provided in section 476.530, a judge employed for the first time on or after January 1, 2011, may elect in the judge's application for retirement whether or not to have such judge's annuity reduced, and designate a beneficiary, as provided by the options set forth in this subsection prior to the judge's annuity starting date:

Option 1. A judge's annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be eighty-eight and one half percent adjusted as follows: if the judge's age on the annuity starting date is younger than sixty-seven years, an increase of three-tenths of one percent for each year the judge's age is younger than age sixty-seven years; and if the beneficiary's age is younger than the judge's age on the annuity starting date, a decrease of three-tenths of one percent for each year of age difference; and if the judge's age is younger than the beneficiary's age on the annuity starting date, an increase of three-tenths of one percent for each year of age difference; provided, after all adjustments the option 1 percent cannot exceed ninety-four and one quarter percent. Upon the judge's death, fifty percent of the judge's reduced annuity shall be paid to such beneficiary who was the judge's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 2. A judge's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be eighty-one percent adjusted as follows: if the judge's age on the annuity starting date is younger than sixty-seven years, an increase of four-tenths of one percent for each year the judge's age is younger than sixty-seven years; and if the beneficiary's age is younger than the judge's age on the annuity starting date, a decrease of five-tenths of one percent for each year of age difference; and if the judge's age is younger than the beneficiary's age on the annuity starting date, an increase of five-tenths of one percent for each year of age difference; provided, after all adjustments the option 2 percent cannot exceed eighty-seven and three quarter percent. Upon the judge's death one hundred percent of the judge's reduced annuity shall be paid to such beneficiary who was the judge's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 3. A judge's life annuity shall be reduced to ninety-three percent of the annuity otherwise payable. If the judge dies before having received one hundred twenty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred twenty-month period to the judge's designated beneficiary provided that if there

is no beneficiary surviving the judge, the present value of the remaining annuity payments shall be paid as provided under subsection 4 of section 104.1054 as if the judge was a deceased member under that section. If the beneficiary survives the judge but dies before receiving the remainder of such one hundred twenty monthly payments, the present value of the remaining annuity payments shall be paid as provided under subsection 4 of section 104.1054 for a deceased beneficiary under that section.

Option 4. A judge's life annuity shall be reduced to eighty-six percent of the annuity otherwise payable. If the judge dies before having received one hundred eighty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred eighty-month period to the judge's designated beneficiary provided that if there is no beneficiary surviving the judge, the present value of the remaining annuity payments shall be paid as provided under subsection 4 of section 104.1054 as if the judge was a deceased member under that section. If the beneficiary survives the judge but dies before receiving the remainder of such one hundred eighty monthly payments, the present value of the remaining annuity payments shall be paid as provided under subsection 4 of section 104.1054 for a deceased beneficiary under that section.

2. If a judge is married as of the annuity starting date, the judge's annuity shall be paid under the provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the judge's choice, with the spouse as the judge's designated beneficiary unless the spouse consents in writing to the judge electing another available form of payment.

3. If a judge has elected at the annuity starting date option 1 or 2 pursuant to this section and if the judge's spouse or eligible former spouse dies after the annuity starting date but before the judge dies, then the judge may cancel the judge's election and return to the unreduced annuity form of payment and annuity amount, effective the first of the month following the date of such spouse's or eligible former spouse's death. If a judge dies prior to notifying the system of the spouse's death, the benefit shall not revert to an unreduced annuity and no retroactive payments shall be made.

4. If a judge designates a spouse as a beneficiary pursuant to this section and subsequently that marriage ends as a result of a dissolution of marriage, such dissolution shall not affect the option election pursuant to this section and the former spouse shall continue to be eligible to receive survivor benefits upon the death of the judge.

5. A judge may make an election under option 1 or 2 after the annuity starting date as described in this section if the judge makes such election within one year from the date of marriage pursuant to any of the following circumstances:

(1) The judge elected to receive a life annuity and was not eligible to elect option 1 or 2 on the annuity starting date; or

(2) The judge's annuity reverted to a normal or early retirement annuity pursuant to subsection 3 of this section, and the judge remarried.

6. A judge may change a judge's election made under this section at any time prior to the system mailing or electronically transferring the first annuity payment to such member.

Approved July 19, 2010

HB 2 [SCS HCS HB 2]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Manufacturing Jobs Act which provides incentives for qualified manufacturing companies and qualified suppliers that create or retain Missouri jobs

AN ACT to amend chapter 620, RSMo, by adding thereto one new sections relating to job growth, with a contingency clause.

SECTION

- A. Enacting clause.
- 620.1910. Manufacturing Jobs Act.
- B. Contingency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 620, RSMo, is amended by adding thereto one new section, to be known as sections 620.1910, to read as follows:

620.1910. MANUFACTURING JOBS ACT. — 1. This section shall be known and may be cited as the "Manufacturing Jobs Act".

2. As used in this section, the following terms mean:

- (1) "Approval", a document submitted by the department to the qualified manufacturing company or qualified supplier that states the benefits that may be provided under this section;**
 - (2) "Capital investment", expenditures made by a qualified manufacturing company to retool or reconfigure a manufacturing facility directly related to the manufacturing of a new product or the expansion or modification of the manufacture of an existing product;**
 - (3) "County average wage", the same meaning as such term is defined in section 620.1878;**
 - (4) "Department", the department of economic development;**
 - (5) "Facility", a building or buildings located in Missouri at which the qualified manufacturing company manufactures a product;**
 - (6) "Full-time job", a job for which a person is compensated for an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified manufacturing company or qualified supplier offers health insurance and pays at least fifty percent of such insurance premiums;**
 - (7) "NAICS industry classification", the most recent edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget;**
 - (8) "New job", the same meaning as such term is defined in section 620.1878;**
 - (9) "New product", a new model or line of a manufactured good that has not been manufactured in Missouri by the qualified manufacturing company at any time prior to the date of the notice of intent, or an existing brand, model, or line of a manufactured good that is redesigned with more than seventy-five percent new exterior body parts and incorporates new powertrain options;**
 - (10) "Notice of intent", a form developed by the department, completed by the qualified manufacturing company or qualified supplier and submitted to the department which states the qualified manufacturing company's or qualified supplier's intent to create new jobs or retain current jobs and make additional capital investment, as applicable, and**
-

request benefits under this section. The notice of intent shall specify the minimum number of such new or retained jobs and the minimum amount of such capital investment;

(11) "Qualified manufacturing company", a business with a NAICS code of 33611 that:

(a) Manufactures goods at a facility in Missouri;

(b) In the case of the manufacture of a new product, commits to make a capital investment of at least seventy-five thousand dollars per retained job within no more than two years of the date the qualified manufacturing company begins to retain withholding tax under this section, or in the case of the modification or expansion of the manufacture of an existing product, commits to make a capital investment of at least fifty thousand dollars per retained job within no more than two years of the date the qualified manufacturing company begins to retain withholding tax under this section;

(c) Manufactures a new product or has commenced making capital improvements to the facility necessary for the manufacturing of such new product, or modifies or expands the manufacture of an existing product or has commenced making capital improvements to the facility necessary for the modification or expansion of the manufacture of such existing product; and

(d) Continues to meet the requirements of paragraphs (a) to (c) of this subdivision for the withholding period;

(12) "Qualified supplier", a manufacturing company that:

(a) Attests to the department that it derives more than ten percent of the total annual sales of the company from sales to a qualified manufacturing company;

(b) Adds five or more new jobs;

(c) Has an average wage, as defined in section 135.950, for such new jobs that are equal to or exceed the lower of the county average wage for Missouri as determined by the department using NAICS industry classifications, but not lower than sixty percent of the statewide average wage; and

(d) Provides health insurance for all full-time jobs and pays at least fifty percent of the premiums of such insurance;

(13) "Retained job", the number of full-time jobs of persons employed by the qualified manufacturing company located at the facility that existed as of the last working day of the month immediately preceding the month in which notice of intent is submitted;

(14) "Statewide average wage", an amount equal to the quotient of the sum of the total gross wages paid for the corresponding four calendar quarters divided by the average annual employment for such four calendar quarters, which shall be computed using the Quarterly Census of Employment and Wages Data for All Private Ownership Businesses in Missouri, as published by the Bureau of Labor Statistics of the United States Department of Labor;

(15) "Withholding period", the seven- or ten-year period in which a qualified manufacturing company may receive benefits under this section;

(16) "Withholding tax", the same meaning as such term is defined in section 620.1878.

3. The department shall respond within thirty days to a qualified manufacturing company or a qualified supplier who provides a notice of intent with either an approval or a rejection of the notice of intent. Failure to respond on behalf of the department shall result in the notice of intent being deemed an approval for the purposes of this section.

4. A qualified manufacturing company that manufactures a new product may, upon the department's approval of a notice of intent and the execution of an agreement that meets the requirements of subsection 9 of this section, but no earlier than January 1, 2012, retain one hundred percent of the withholding tax from full-time jobs at the facility for a period of ten years. A qualified manufacturing company that modifies or expands the

manufacture of an existing product may, upon the department's approval of a notice of intent and the execution of an agreement that meets the requirements of subsection 9 of this section, but no earlier than January 1, 2012, retain fifty percent of the withholding tax from full-time jobs at the facility for a period of seven years. Except as otherwise allowed under subsection 7 of this section, the commencement of the withholding period may be delayed by no more than twenty-four months after execution of the agreement at the option of the qualified manufacturing company. Such qualified manufacturing company shall be eligible for participation in the Missouri quality jobs program in sections 620.1875 to 620.1890 for any new jobs for which it does not retain withholding tax under this section, provided all qualifications for such program are met.

5. A qualified supplier may, upon approval of a notice of intent by the department, retain all withholding tax from new jobs for a period of three years from the date of approval of the notice of intent or for a period of five years if the supplier pays wages for the new jobs equal to or greater than one hundred twenty percent of county average wage. Notwithstanding any other provision of law to the contrary, a qualified supplier that is awarded benefits under this section shall not receive any tax credit or exemption or be entitled to retain withholding under sections 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, sections 135.900 to 135.906, sections 135.950 to 135.970, or section 620.1881 for the same jobs.

6. Notwithstanding any other provision of law to the contrary, the maximum amount of withholding tax that may be retained by any one qualified manufacturing company under this section shall not exceed ten million dollars per calendar year. The aggregate amount of withholding tax that may be retained by all qualified manufacturing companies under this section shall not exceed fifteen million dollars per calendar year.

7. Notwithstanding any other provision of law to the contrary, any qualified manufacturing company that is awarded benefits under this section shall not simultaneously receive tax credits or exemptions under sections 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the jobs created or retained or capital improvement which qualified for benefits under this section. The benefits available to the qualified manufacturing company under any other state programs for which the qualified manufacturing company is eligible and which utilize withholding tax from the jobs at the facility shall first be credited to the other state program before the applicable withholding period for benefits provided under this section shall begin. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, the job retention program under sections 178.760 to 178.764, the real property tax increment allocation redevelopment act under sections 99.800 to 99.865, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980. If any qualified manufacturing company also participates in the new jobs training program in sections 178.892 to 178.896, such qualified manufacturing company shall not retain any withholding tax that has already been allocated for use in the new jobs training program. Any qualified manufacturing company or qualified supplier that is awarded benefits under this program and knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any withholding taxes already retained. Subsection 5 of section 285.530 shall not apply to qualified manufacturing companies or qualified suppliers which are awarded benefits under this program.

8. The department may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.

This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

9. Within six months of completion of a notice of intent required under this section, the qualified manufacturing company shall enter into an agreement with the department that memorializes the content of the notice of intent, the requirements of this section, and the consequences for failing to meet such requirements, which shall include the following:

(1) If the amount of capital investment made by the qualified manufacturing company is not made within the two-year period provided for such investment, the qualified manufacturing company shall immediately cease retaining any withholding tax with respect to jobs at the facility and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period. In addition, the qualified manufacturing company shall repay any amounts of withholding tax retained plus interest of five percent per annum. However, in the event that such capital investment shortfall is due to economic conditions beyond the control of the qualified manufacturing company, the director may, at the qualified manufacturing company's request, suspend rather than terminate its privilege to retain withholding tax under this section for up to three years. Any such suspension shall extend the withholding period by the same amount of time. No more than one such suspension shall be granted to a qualified manufacturing company;

(2) If the qualified manufacturing company discontinues the manufacturing of the new product and does not replace it with a subsequent or additional new product manufactured at the facility at any time during the withholding period, the qualified manufacturing company shall immediately cease retaining any withholding tax with respect to jobs at that facility and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period.

10. Prior to March first each year, the department shall provide a report to the general assembly including the names of participating qualified manufacturing companies or qualified suppliers, location of such companies or suppliers, the annual amount of benefits provided, the estimated net state fiscal impact including direct and indirect new state taxes derived, and the number of new jobs created or jobs retained.

11. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

SECTION B. CONTINGENCY CLAUSE. — Because of the governor's authority under the provisions of Section IV, Article 8 of the Missouri Constitution to specifically designate matters to be considered in an extraordinary session of the general assembly and the inextricable nature of the matters designated in the governor's proclamation for this first extraordinary session, section A of this act shall not become effective except upon the passage and approval by signature of the governor of the truly agreed and finally passed version of house bill no. 1 as enacted during the first extraordinary session of the second regular session of the ninety-fifth general assembly.

Approved July 15, 2010

This page intentionally left blank.

ABORTION

SB 793 Modifies provisions relating to abortion

ADMINISTRATION, OFFICE OF

SB 844 Modifies the law relating to ethics
HB 1868 Modifies provisions relating to duties of agencies and officials operating within the executive branch.

ADMINISTRATIVE LAW

HB 1695 Modifies provisions relating to intoxication-related traffic offenses
HB 2198 Modifies provisions of the Motor Vehicle Franchise Practices Act

AGRICULTURE AND ANIMALS

SCR 35 Disapproves the new values for agricultural and horticultural property filed with the Secretary of State's Office on December 21, 2009, by the State Tax Commission
SB 795 Modifies various provisions regarding animals and agriculture
HB 1662 Authorizes the State Veterinarian to restrict the movement of animals or birds under investigation for carrying a toxin
HB 1840 Modifies criteria for certain representatives on the Rice Advisory Council
HB 1848 Creates the Joint Committee on Urban Farming
HB 2182 Defines the term "agritourism"

AGRICULTURE DEPARTMENT

SB 795 Modifies various provisions regarding animals and agriculture
HB 1662 Authorizes the State Veterinarian to restrict the movement of animals or birds under investigation for carrying a toxin
HB 1840 Modifies criteria for certain representatives on the Rice Advisory Council
HB 1848 Creates the Joint Committee on Urban Farming

ALCOHOL

SB 795 Modifies various provisions regarding animals and agriculture
HB 1695 Modifies provisions relating to intoxication-related traffic offenses

ANNEXATION

SB 942 Modifies provisions relating to municipal annexation

APPROPRIATIONS

HB 2001 Appropriates money to the Board of Fund Commissioners
HB 2002 Appropriates money for the expenses, grants, refunds, and distributions of the State Board of Education and Department of Elementary and Secondary Education
HB 2003 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Higher Education

- HB 2004 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Revenue
- HB 2005 Appropriates money for the expenses, grants, refunds, and distributions of the Office of Administration, Department of Transportation, and Department of Public Safety
- HB 2006 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, and Department of Conservation
- HB 2007 Appropriates money for the expenses and distributions of the Departments of Economic Development, Insurance, Financial Institutions, Professional Registration, Labor Industrial Relations, Transportation
- HB 2008 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Public Safety
- HB 2009 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Corrections
- HB 2010 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Mental Health, Board of Public Buildings, and Department of Health and Senior Services
- HB 2011 Appropriates money for the expenses, grants, and distributions of the Department of Social Services
- HB 2012 Appropriates money for the expenses, grants, refunds, and distributions of statewide elected officials, the Judiciary, Office of the State Public Defender, and General Assembly
- HB 2013 Appropriates money for real property leases and related services
- HB 2014 Appropriates money for supplemental purposes for several departments and offices of state government, purchase of equipment, payment of claims for refunds, for persons, firms and corporations
- HB 2016 Appropriates money for supplemental purposes

ARCHITECTS

- HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law

ATTORNEY GENERAL, STATE

- SB 884 Amends various provisions of the Tobacco Master Settlement Agreement

BANKS AND FINANCIAL INSTITUTIONS

- SB 630 Modifies various provisions pertaining to manufactured homes
- SB 753 Allows county commissions to invest cemetery trust funds in certificates of deposit
- SB 771 Modifies provisions relating to financial institutions offering bids to become the official county depository
- SB 777 Allows for the sale of certain financial products and plans associated with certain loan transactions (VETOED)
- HB 2058 Modifies the law relating to mechanics' lien rights
- HB 2201 Modifies the licensing exemptions of the Missouri Secure and Fair Enforcement for Mortgage Licensing Act and authorizes conservators to invest funds in accounts at credit unions
-

BINGO

- SB 940 Modifies various provision relating to bingo

BOARDS, COMMISSIONS, COMMITTEES, COUNCILS

- SB 754 Modifies provisions related to cemeteries, the licensing of certain professions, death certificates, public assistance programs, and various other provisions
- HB 1543 Modifies provisions relating to elementary and secondary education
- HB 1741 Allows corporate board members to consent to certain actions by electronic transmission (VETOED)
- HB 1831 Allows school districts, after ten years, to return donated property to the original donor or sell it as surplus if the original donor refuses it (VETOED)
- HB 1840 Modifies criteria for certain representatives on the Rice Advisory Council
- HB 1848 Creates the Joint Committee on Urban Farming
- HB 1868 Modifies provisions relating to duties of agencies and officials operating within the executive branch.
- HB 1942 Modifies provisions pertaining to emergency telephone service 911 boards
- HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals
- HB 2297 Authorizes the establishment of the Kansas City Zoological District

BOATS AND WATERCRAFT

- SB 578 Allows port authority boards to establish port improvement districts to fund projects with voter-approved sales taxes or property taxes
- HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law

BONDS — GENERAL OBLIGATION AND REVENUE

- SB 758 Requires notes, bonds, and other instruments in writing issued by the bi-state development agency to mature not more than forty years from the date of issuance, rather than thirty years

BUSINESS AND COMMERCE

- SB 586 Regulates sexually oriented businesses
- SB 928 Modifies provisions of law regarding the sales tax treatment of sales for resale
- HB 2198 Modifies provisions of the Motor Vehicle Franchise Practices Act

CAMPAIGN FINANCE

- SB 844 Modifies the law relating to ethics

CAPITAL IMPROVEMENTS

- SB 981 Modifies various provisions of law regarding sales taxes

CEMETERIES

- SB 753 Allows county commissions to invest cemetery trust funds in certificates of deposit
SB 754 Modifies provisions related to cemeteries, the licensing of certain professions, death certificates, public assistance programs, and various other provisions
HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law

CHILDREN AND MINORS

- SB 583 Modifies various provisions relating to the regulation of insurance
HB 1270 Changes the name of the Crippled Children's Service to the Children's Special Health Care Needs Service and modifies references to crippled children accordingly
HB 1543 Modifies provisions relating to elementary and secondary education
HB 1892 Authorizes school personnel other than the school superintendent to issue a work certificate
HB 1893 Modifies provisions of law regarding excursion gambling boats
HB 2056 Modifies certain requirements about Social Security numbers in certain liens
HB 2081 Allows a woman to use deadly force if she reasonably believes that such deadly force is necessary to protect her unborn child against death, serious physical injury, or any forcible felony
HB 2262 Allows the Adjutant General of the Missouri National Guard to establish a residential academy for at-risk high school age youth
HB 2270 Allows child abuse medical resource centers and SAFE CARE providers to collaborate to promote improved services to children who are suspected victims of abuse in need of a forensic medical exams
HB 2290 Modifies provisions relating to child care subsidies and removed obsolete statutory references to the preneed funeral law in the public assistance chapter

CIRCUIT CLERK

- HB 1654 Modifies certain requirements about federal taxpayer identification numbers in notices of garnishment and writs of sequestration

CITIES, TOWNS AND VILLAGES

- SB 644 Modifies provisions of law regarding certain taxes to fund tourism and convention centers
SB 754 Modifies provisions related to cemeteries, the licensing of certain professions, death certificates, public assistance programs, and various other provisions
SB 851 Requires at least four days notice before voting by governing bodies of local governments on tax increases, eminent domain, and certain districts and projects
SB 942 Modifies provisions relating to municipal annexation
SB 981 Modifies various provisions of law regarding sales taxes
HB 1392 Modifies provisions of law regarding property taxes
HB 1442 Modifies provisions of law regarding taxes
HB 1444 Requires at least four days notice before voting by governing bodies of local governments on tax increases, eminent domain, and certain districts and projects
HB 1942 Modifies provisions pertaining to emergency telephone service 911 boards
-

- HB 2285 Authorizes the Governor to convey state property and requires the Office of Administration to provide members of the General Assembly a key to access the Capitol building dome
- HB 2317 Authorizes the Governor to convey state property and requires the Office of Administration to provide members of the General Assembly a key to access the Capitol building dome (VETOED)

CIVIL PROCEDURE

- HB 1654 Modifies certain requirements about federal taxpayer identification numbers in notices of garnishment and writs of sequestration
- HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law

CONSUMER PROTECTION

- HB 2198 Modifies provisions of the Motor Vehicle Franchise Practices Act

CONTRACTS AND CONTRACTORS

- SB 754 Modifies provisions related to cemeteries, the licensing of certain professions, death certificates, public assistance programs, and various other provisions
- SB 795 Modifies various provisions regarding animals and agriculture
- SB 844 Modifies the law relating to ethics
- HB 1868 Modifies provisions relating to duties of agencies and officials operating within the executive branch.
- HB 2058 Modifies the law relating to mechanics' lien rights

COOPERATIVES

- HB 1848 Creates the Joint Committee on Urban Farming

CORPORATIONS

- HB 1595 Includes construction, extension, and improvement of public roads in the definition of project for the purposes of industrial development corporations
- HB 1741 Allows corporate board members to consent to certain actions by electronic transmission (VETOED)

COUNTIES

- SB 588 Modifies provisions of law requiring notices of projected tax liability
- SB 644 Modifies provisions of law regarding certain taxes to fund tourism and convention centers
- SB 753 Allows county commissions to invest cemetery trust funds in certificates of deposit
- SB 771 Modifies provisions relating to financial institutions offering bids to become the official county depository
- SB 851 Requires at least four days notice before voting by governing bodies of local governments on tax increases, eminent domain, and certain districts and projects
- HB 1316 Modifies provisions of law regarding property taxes

- HB 1340 Repeals the provision of law allowing fire protection districts in Douglas County to seek voter approval to impose a sales tax
- HB 1392 Modifies provisions of law regarding property taxes
- HB 1442 Modifies provisions of law regarding taxes
- HB 1444 Requires at least four days notice before voting by governing bodies of local governments on tax increases, eminent domain, and certain districts and projects
- HB 1612 Modifies provisions relating to sewer districts
- HB 1806 Modifies provisions relating to county classification and municipal annexation

COUNTY OFFICIALS

- SB 588 Modifies provisions of law requiring notices of projected tax liability
- SB 808 Modifies compensation and continuing education requirements for public administrators
- HB 1316 Modifies provisions of law regarding property taxes
- HB 1643 Modifies provisions relating to recording fees
- HB 1942 Modifies provisions pertaining to emergency telephone service 911 boards

COURTS

- HB 1654 Modifies certain requirements about federal taxpayer identification numbers in notices of garnishment and writs of sequestration
- HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law
- HB 1695 Modifies provisions relating to intoxication-related traffic offenses
- HB 1894 Requires the Director of the Department of Mental Health, or his or her designee, to certify overdue patient accounts submitted to a court for collection
- HB 2056 Modifies certain requirements about Social Security numbers in certain liens

CRIMES AND PUNISHMENT

- SB 586 Regulates sexually oriented businesses
- SB 774 Creates additional measures intended to increase safety at the Department of Mental Health
- SB 984 Modifies the provision of law which makes it a class B misdemeanor for any gaming licensee to exchange tokens, chips, or other forms of credit used on gambling games for anything of value
- HB 1540 Modifies provisions relating to infractions
- HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law
- HB 1695 Modifies provisions relating to intoxication-related traffic offenses
- HB 2081 Allows a woman to use deadly force if she reasonably believes that such deadly force is necessary to protect her unborn child against death, serious physical injury, or any forcible felony

CRIMINAL PROCEDURE

- HB 1540 Modifies provisions relating to infractions
 - HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law
 - HB 1695 Modifies provisions relating to intoxication-related traffic offenses
-

- HB 2081 Allows a woman to use deadly force if she reasonably believes that such deadly force is necessary to protect her unborn child against death

DENTISTS

- HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals

DISABILITIES

- SB 1007 Amends various requirements for public assistance programs administered by the state
- HB 1270 Changes the name of the Crippled Children's Service to the Children's Special Health Care Needs Service and modifies references to crippled children accordingly
- HB 2270 Allows child abuse medical resource centers and SAFE CARE providers to collaborate to promote improved services to children who are suspected victims of abuse in need of a forensic medical exams

DOMESTIC RELATIONS

- HB 2056 Modifies certain requirements about Social Security numbers in certain liens

DRAINAGE AND LEVEE DISTRICTS

- HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law

DRUGS AND CONTROLLED SUBSTANCES

- HB 1472 Expands the list of controlled substances

DRUNK DRIVING/BOATING

- HB 1695 Modifies provisions relating to intoxication-related traffic offenses

EASEMENTS AND CONVEYANCES

- HB 2285 Authorizes the Governor to convey state property and requires the Office of Administration to provide members of the General Assembly a key to access the Capitol building dome
- HB 2317 Authorizes the Governor to convey certain state properties and requires the Office of Administration to provide senators and representatives the access to the dome of the state capitol (VETOED)

ECONOMIC DEVELOPMENT

- HB 1595 Includes construction, extension, and improvement of public roads in the definition of project for the purposes of industrial development corporations
-

ECONOMIC DEVELOPMENT DEPARTMENT

SB 795 Modifies various provisions regarding animals and agriculture

EDUCATION — ELEMENTARY AND SECONDARY

SB 795 Modifies various provisions regarding animals and agriculture
HB 1524 Modifies laws connected to military forces
HB 1543 Modifies provisions relating to elementary and secondary education
HB 1831 Allows school districts, after ten years, to return donated property to the original donor or sell it as surplus if the original donor refuses it (VETOED)
HB 1892 Authorizes school personnel other than the school superintendent to issue a work certificate
HB 1903 Establishes the Federal Budget Stabilization Extension Fund and the Race to the Top Fund (VETOED)
HB 2147 Exempts certain students who are dependents of recently retired military personnel from the three-year attendance requirement under the A+ Schools Program

EDUCATION — HIGHER

SB 733 Modifies provisions of the Bright Flight Scholarship Program and Access Missouri Financial Assistance Program
SB 772 Removes the minimum time for holding investments in the Missouri higher education savings program
SB 987 Increases the statutory award amount for research projects funded by the University of Missouri Board of Curators
HB 1524 Modifies laws connected to military forces
HB 1858 Transfers the administration of the Minority Teaching Scholarship and the Minority and Under represented Environmental Literacy Program to the Department of Higher Education

ELECTIONS

SB 844 Modifies the law relating to ethics
HB 1524 Modifies laws connected to military forces

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

SB 583 Modifies various provisions relating to the regulation of insurance
HB 1543 Modifies provisions relating to elementary and secondary education
HB 1903 Establishes the Federal Budget Stabilization Extension Fund and the Race to the Top Fund (VETOED)
HB 2147 Exempts certain students who are dependents of recently retired military personnel from the three-year attendance requirement under the A+ Schools Program

EMERGENCIES

HB 1942 Modifies provisions pertaining to emergency telephone service 911 boards
HB 1977 Modifies the laws regarding emergency services and emergency medical technicians-intermediate

EMPLOYEES — EMPLOYERS

- HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals

EMPLOYMENT SECURITY

- HB 1544 Allows the state to continue to receive extended federal unemployment benefit funds and extends participation in the shared work plan

ENERGY

- HB 1848 Creates the Joint Committee on Urban Farming

ENTERTAINMENT, SPORTS AND AMUSEMENTS

- SB 928 Modifies provisions of law regarding the sales tax treatment of sales for resale

ESTATES, WILLS AND TRUSTS

- SB 753 Allows county commissions to invest cemetery trust funds in certificates of deposit

FAMILY LAW

- HB 2056 Modifies certain requirements about Social Security numbers in certain liens

FEDERAL — STATE RELATIONS

- HB 1903 Establishes the Federal Budget Stabilization Extension Fund and the Race to the Top Fund (VETOED)

FEES

- HB 1643 Modifies provisions relating to recording fees

FIRE PROTECTION

- SB 739 Modifies the provisions governing fire department employee residency requirements
SB 981 Modifies various provisions of law regarding sales taxes
HB 1340 Repeals the provision of law allowing fire protection districts in Douglas County to seek voter approval to impose a sales tax
HB 2070 Modifies provisions of law regarding the use of revenues derived from taxes levied for joint central fire and emergency dispatching services

FIREARMS AND FIREWORKS

- HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law
-

FUNERALS AND FUNERAL DIRECTORS

- SB 754 Modifies provisions related to cemeteries, the licensing of certain professions, death certificates, public assistance programs, and various other provisions
- HB 1524 Modifies laws connected to military forces
- HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals
- HB 2231 Modifies the procedures by which a funeral establishment may dispose of cremated remains
- HB 2290 Modifies provisions relating to child care subsidies and removed obsolete statutory references to the preneed funeral law in the public assistance chapter

GAMBLING

- SB 984 Modifies the provision of law which makes it a class B misdemeanor for any gaming licensee to exchange tokens, chips, or other forms of credit used on gambling games for anything of value
- HB 1893 Modifies provisions of law regarding excursion gambling boats

GENERAL ASSEMBLY

- SCR 35 Disapproves the new values for agricultural and horticultural property filed with the Secretary of State's Office on December 21, 2009, by the State Tax Commission
- HB 1868 Modifies provisions relating to duties of agencies and officials operating within the executive branch.
- HB 1903 Establishes the Federal Budget Stabilization Extension Fund and the Race to the Top Fund (VETOED)
- HB 2285 Authorizes the Governor to convey state property and requires the Office of Administration to provide members of the General Assembly a key to access the Capitol building dome
- HB 2317 Authorizes the Governor to convey certain state properties and requires the Office of Administration to provide senators and representatives the access to the dome of the state capitol (VETOED)

GOVERNOR & LT. GOVERNOR

- HB 1524 Modifies laws connected to military forces
- HB 1543 Modifies provisions relating to elementary and secondary education
- HB 2285 Authorizes the Governor to convey state property and requires the Office of Administration to provide members of the General Assembly a key to access the Capitol building dome
- HB 2317 Authorizes the Governor to convey certain state properties and requires the Office of Administration to provide senators and representatives the access to the dome of the state capitol (VETOED)

GUARDIANS

- HB 2201 Modifies the licensing exemptions of the Missouri Secure and Fair Enforcement for Mortgage Licensing Act and authorizes conservators to invest funds in accounts at credit unions
-

HEALTH CARE

- SB 842 Modifies provisions relating to public assistance programs administered by the state
HB 1375 Modifies provisions relating to certain sexually transmitted diseases
HB 1898 Establishes the Women's Heart Health Program to provide heart disease risk screenings to certain uninsured and under insured women

HEALTH CARE PROFESSIONALS

- SB 754 Modifies provisions related to cemeteries, the licensing of certain professions, death certificates, public assistance programs, and various other provisions
HB 1311 Requires health carriers to provide coverage for the diagnosis and treatment of autism spectrum disorders and provides for the licensure of applied behavior analysts
HB 1375 Modifies provisions relating to certain sexually transmitted diseases
HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals
HB 2270 Allows child abuse medical resource centers and SAFE CARE providers to collaborate to promote improved services to children who are suspected victims of abuse in need of a forensic medical exams

HEALTH DEPARTMENT

- SB 793 Modifies provisions relating to abortion
SB 795 Modifies various provisions regarding animals and agriculture
SB 842 Modifies provisions relating to public assistance programs administered by the state
SB 1007 Amends various requirements for public assistance programs administered by the state
HB 1270 Changes the name of the Crippled Children's Service to the Children's Special Health Care Needs Service and modifies references to crippled children accordingly
HB 1472 Expands the list of controlled substances
HB 1898 Establishes the Women's Heart Health Program to provide heart disease risk screenings to certain uninsured and under insured women
HB 1977 Modifies the laws regarding emergency services and emergency medical technicians-intermediate

HEALTH, PUBLIC

- HB 1375 Modifies provisions relating to certain sexually transmitted diseases

HIGHER EDUCATION DEPARTMENT

- SB 733 Modifies provisions of the Bright Flight Scholarship Program and Access Missouri Financial Assistance Program
HB 1543 Modifies provisions relating to elementary and secondary education
HB 1858 Transfers the administration of the Minority Teaching Scholarship and the Minority and Under represented Environmental Literacy Program to the Department of Higher Education
-

HOLIDAYS

- SB 649 Requires the Governor to issue an annual proclamation designating March 12th as "Girl Scout Day"

HOSPITALS

- SB 842 Modifies provisions relating to public assistance programs administered by the state

HOUSING

- HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law
- HB 2201 Modifies the licensing exemptions of the Missouri Secure and Fair Enforcement for Mortgage Licensing Act and authorizes conservators to invest funds in accounts at credit unions

INSURANCE — GENERAL

- SB 777 Allows for the sale of certain financial products and plans associated with certain loan transactions (VETOED)
- SB 834 Establishes a procedure for the voluntary liquidation and dissolution of domestic stock insurance companies
- HB 1764 Modifies several provisions of law relating to the regulation of insurance

INSURANCE — LIFE

- HB 2290 Modifies provisions relating to child care subsidies and removed obsolete statutory references to the preneed funeral law in the public assistance chapter

INSURANCE — MEDICAL

- SB 583 Modifies various provisions relating to the regulation of insurance
- HB 1311 Requires health carriers to provide coverage for the diagnosis and treatment of autism spectrum disorders and provides for the licensure of applied behavior analysts
- HB 1498 Modifies various provisions of the prompt pay statutes as they relate to the calculation of interest and penalties, the payment of attorney fees, and other ancillary matters
- HB 1764 Modifies several provisions of law relating to the regulation of insurance

INSURANCE DEPARTMENT

- SB 583 Modifies various provisions relating to the regulation of insurance
- SB 834 Establishes a procedure for the voluntary liquidation and dissolution of domestic stock insurance companies
- HB 1311 Requires health carriers to provide coverage for the diagnosis and treatment of autism spectrum disorders and provides for the licensure of applied behavior analysts
-

- HB 1498 Modifies various provisions of the prompt pay statutes as they relate to the calculation of interest and penalties, the payment of attorney fees, and other ancillary matters
- HB 1764 Modifies several provisions of law relating to the regulation of insurance

INTERSTATE COOPERATION

- SB 758 Requires notes, bonds, and other instruments in writing issued by the bi-state development agency to mature not more than forty years from the date of issuance, rather than thirty years

JACKSON COUNTY

- HB 1643 Modifies provisions relating to recording fees

KANSAS CITY

- HB 1848 Creates the Joint Committee on Urban Farming

LABOR AND INDUSTRIAL RELATIONS DEPARTMENT

- HB 1544 Allows the state to continue to receive extended federal unemployment benefit funds and extends participation in the shared work plan

LANDLORDS AND TENANTS

- HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law

LAW ENFORCEMENT OFFICERS AND AGENCIES

- SB 981 Modifies various provisions of law regarding sales taxes
- HB 1540 Modifies provisions relating to infractions
- HB 1942 Modifies provisions pertaining to emergency telephone service 911 boards

LIABILITY

- SB 795 Modifies various provisions regarding animals and agriculture

LIBRARIES AND ARCHIVES

- HB 1559 Changes the dates for submitting an annual status report to the consolidated library district, county commission, and the State Library Commission

LICENSES — DRIVER'S

- HB 1695 Modifies provisions relating to intoxication-related traffic offenses
- HB 2161 Specifies that "commercial purposes" as it relates to the sale of driver's license application information will not include when used, compiled, or obtained for certain purposes expressly allowed by law
-

LICENSES — MISC

- SB 795 Modifies various provisions regarding animals and agriculture
SB 984 Modifies the provision of law which makes it a class B misdemeanor for any gaming licensee to exchange tokens, chips, or other forms of credit used on gambling games for anything of value
HB 2201 Modifies the licensing exemptions of the Missouri Secure and Fair Enforcement for Mortgage Licensing Act and authorizes conservators to invest funds in accounts at credit unions

LICENSES — MOTOR VEHICLE

- HB 1524 Modifies laws connected to military forces
HB 2198 Modifies provisions of the Motor Vehicle Franchise Practices Act

LICENSES — PROFESSIONAL

- SB 583 Modifies various provisions relating to the regulation of insurance
SB 754 Modifies provisions related to cemeteries, the licensing of certain professions, death certificates, public assistance programs, and various other provisions
HB 1311 Requires health carriers to provide coverage for the diagnosis and treatment of autism spectrum disorders and provides for the licensure of applied behavior analysts
HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law
HB 1977 Modifies the laws regarding emergency services and emergency medical technicians-intermediate
HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals

LIENS

- SB 630 Modifies various provisions pertaining to manufactured homes
HB 2056 Modifies certain requirements about Social Security numbers in certain liens

MANUFACTURED HOUSING

- SB 630 Modifies various provisions pertaining to manufactured homes

MARRIAGE AND DIVORCE

- HB 1643 Modifies provisions relating to recording fees

MEDICAID

- SB 842 Modifies provisions relating to public assistance programs administered by the state
SB 1007 Amends various requirements for public assistance programs administered by the state
-

MEDICAL PROCEDURES AND PERSONNEL

- HB 1375 Modifies provisions relating to certain sexually transmitted diseases
HB 2270 Allows child abuse medical resource centers and SAFE CARE providers to collaborate to promote improved services to children who are suspected victims of abuse in need of a forensic medical exams

MENTAL HEALTH

- HB 1868 Modifies provisions relating to duties of agencies and officials operating within the executive branch.
HB 1894 Requires the Director of the Department of Mental Health, or his or her designee, to certify overdue patient accounts submitted to a court for collection
HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals

MENTAL HEALTH DEPARTMENT

- SB 774 Creates additional measures intended to increase safety at the Department of Mental Health
HB 1894 Requires the Director of the Department of Mental Health, or his or her designee, to certify overdue patient accounts submitted to a court for collection

MERCHANDISING PRACTICES

- HB 2198 Modifies provisions of the Motor Vehicle Franchise Practices Act

MILITARY AFFAIRS

- HB 1524 Modifies laws connected to military forces
HB 2262 Allows the Adjutant General of the Missouri National Guard to establish a residential academy for at-risk high school age youth

MINORITIES

- HB 1858 Transfers the administration of the Minority Teaching Scholarship and the Minority and Under represented Environmental Literacy Program to the Department of Higher Education

MORTGAGES AND DEEDS

- SB 630 Modifies various provisions pertaining to manufactured homes
HB 2201 Modifies the licensing exemptions of the Missouri Secure and Fair Enforcement for Mortgage Licensing Act and authorizes conservators to invest funds in accounts at credit unions

MOTELS AND HOTELS

- SB 644 Modifies provisions of law regarding certain taxes to fund tourism and convention centers
SB 928 Modifies provisions of law regarding the sales tax treatment of sales for resale
-

HB 1442 Modifies provisions of law regarding taxes

MOTOR VEHICLES

HB 1540 Modifies provisions relating to infractions

HB 1695 Modifies provisions relating to intoxication-related traffic offenses

HB 2198 Modifies provisions of the Motor Vehicle Franchise Practices Act

NATIONAL GUARD

HB 1524 Modifies laws connected to military forces

NATURAL RESOURCES DEPARTMENT

HB 1858 Transfers the administration of the Minority Teaching Scholarship and the Minority and Under represented Environmental Literacy Program to the Department of Higher Education

NURSES

HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals

NURSING AND BOARDING HOMES

SB 754 Modifies provisions related to cemeteries, the licensing of certain professions, death certificates, public assistance programs, and various other provisions

PHARMACY

HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals

PHYSICAL THERAPISTS

HB 2226 Modifies the laws regarding the regulation of certain professions and the regulation of hospitals

POLITICAL SUBDIVISIONS

SB 808 Modifies compensation and continuing education requirements for public administrators

SB 851 Requires at least four days notice before voting by governing bodies of local governments on tax increases, eminent domain, and certain districts and projects

HB 1392 Modifies provisions of law regarding property taxes

HB 1444 Requires at least four days notice before voting by governing bodies of local governments on tax increases, eminent domain, and certain districts and projects

HB 1612 Modifies provisions relating to sewer districts

HB 1942 Modifies provisions pertaining to emergency telephone service 911 boards

PROPERTY, REAL AND PERSONAL

- SB 630 Modifies various provisions pertaining to manufactured homes
HB 1692 Modifies provisions relating to real estate broker and real estate salesperson
licensing, unemployment compensation, deadly force, and other provisions of law
HB 1831 Allows school districts, after ten years, to return donated property to the original
donor or sell it as surplus if the original donor refuses it (VETOED)
HB 2285 Authorizes the Governor to convey state property and requires the Office of
Administration to provide members of the General Assembly a key to access the
Capitol building dome
HB 2317 Authorizes the Governor to convey state property and requires the Office of
Administration to provide members of the General Assembly a key to access the
Capitol building dome (VETOED)

PSYCHOLOGISTS

- HB 1311 Requires health carriers to provide coverage for the diagnosis and treatment of
autism spectrum disorders and provides for the licensure of applied behavior
analysts

PUBLIC ASSISTANCE

- SB 1007 Amends various requirements for public assistance programs administered by the
state
HB 1643 Modifies provisions relating to recording fees
HB 1692 Modifies provisions relating to real estate broker and real estate salesperson
licensing, unemployment compensation, deadly force, and other provisions of law
HB 2290 Modifies provisions relating to child care subsidies and removed obsolete statutory
references to the preneed funeral law in the public assistance chapter

PUBLIC OFFICERS

- SB 844 Modifies the law relating to ethics
HB 1692 Modifies provisions relating to real estate broker and real estate salesperson
licensing, unemployment compensation, deadly force, and other provisions of law
HB 1868 Modifies provisions relating to duties of agencies and officials operating within the
executive branch.

PUBLIC RECORDS, PUBLIC MEETINGS

- SB 851 Requires at least four days notice before voting by governing bodies of local
governments on tax increases, eminent domain, and certain districts and projects
HB 1444 Requires at least four days notice before voting by governing bodies of local
governments on tax increases, eminent domain, and certain districts and projects
HB 1868 Modifies provisions relating to duties of agencies and officials operating within the
executive branch.

PUBLIC SERVICE COMMISSION

- SB 791 Modifies provisions pertaining to sewer and water utilities
-

HB 1750 Requires certain telephone companies to reduce intrastate exchange access rates

REVENUE DEPARTMENT

SB 583 Modifies various provisions relating to the regulation of insurance
SB 630 Modifies various provisions pertaining to manufactured homes
SB 884 Amends various provisions of the Tobacco Master Settlement Agreement
HB 1524 Modifies laws connected to military forces
HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law
HB 1695 Modifies provisions relating to intoxication-related traffic offenses
HB 2161 Specifies that "commercial purposes" as it relates to the sale of driver's license application information will not include when used, compiled, or obtained for certain purposes expressly allowed by law
HB 2198 Modifies provisions of the Motor Vehicle Franchise Practices Act

REVISION BILLS

HB 1516 Repeals expired statutes
HB 1965 Repeals and modifies provisions deemed to be obsolete

ROADS AND HIGHWAYS

SB 795 Modifies various provisions regarding animals and agriculture
HB 1941 Designates several portions of highways located within Missouri after deceased individuals

SAINT LOUIS

SB 739 Modifies the provisions governing fire department employee residency requirements
HB 1848 Creates the Joint Committee on Urban Farming

SALARIES

SB 739 Modifies the provisions governing fire department employee residency requirements

SCIENCE AND TECHNOLOGY

SB 987 Increases the statutory award amount for research projects funded by the University of Missouri Board of Curators

SECRETARY OF STATE

SB 834 Establishes a procedure for the voluntary liquidation and dissolution of domestic stock insurance companies
SB 844 Modifies the law relating to ethics
HB 1524 Modifies laws connected to military forces
HB 1764 Modifies several provisions of law relating to the regulation of insurance

SEWERS AND SEWER DISTRICTS

- SB 791 Modifies provisions pertaining to sewer and water utilities
HB 1612 Modifies provisions relating to sewer districts
HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law

SEXUAL OFFENSES

- SB 774 Creates additional measures intended to increase safety at the Department of Mental Health

SOCIAL SERVICES DEPARTMENT

- SB 754 Modifies provisions related to cemeteries, the licensing of certain professions, death certificates, public assistance programs, and various other provisions
SB 1007 Amends various requirements for public assistance programs administered by the state
HB 2290 Modifies provisions relating to child care subsidies and removed obsolete statutory references to the preneed funeral law in the public assistance chapter

STATE TAX COMMISSION

- SCR 35 Disapproves the new values for agricultural and horticultural property filed with the Secretary of State's Office on December 21, 2009, by the State Tax Commission

SUNSHINE LAW

- SB 987 Increases the statutory award amount for research projects funded by the University of Missouri Board of Curators

TAXATION AND REVENUE — GENERAL

- SB 644 Modifies provisions of law regarding certain taxes to fund tourism and convention centers
HB 1408 Modifies provisions of law allowing interest on overpayments of income taxes
HB 2070 Modifies provisions of law regarding the use of revenues derived from taxes levied for joint central fire and emergency dispatching services
HB 2297 Authorizes the establishment of the Kansas City Zoological District

TAXATION AND REVENUE — INCOME

- HB 1408 Modifies provisions of law allowing interest on overpayments of income taxes

TAXATION AND REVENUE — PROPERTY

- SCR 35 Disapproves the new values for agricultural and horticultural property filed with the Secretary of State's Office on December 21, 2009, by the State Tax Commission
SB 578 Allows port authority boards to establish port improvement districts to fund projects with voter-approved sales taxes or property taxes
SB 588 Modifies provisions of law requiring notices of projected tax liability

- HB 1316 Modifies provisions of law regarding property taxes
HB 1340 Repeals the provision of law allowing fire protection districts in Douglas County to seek voter approval to impose a sales tax
HB 1392 Modifies provisions of law regarding property taxes

TAXATION AND REVENUE — SALES AND USE

- SB 578 Allows port authority boards to establish port improvement districts to fund projects with voter-approved sales taxes or property taxes
SB 928 Modifies provisions of law regarding the sales tax treatment of sales for resale
SB 981 Modifies various provisions of law regarding sales taxes
HB 1340 Repeals the provision of law allowing fire protection districts in Douglas County to seek voter approval to impose a sales tax
HB 1442 Modifies provisions of law regarding taxes

TEACHERS

- HB 1543 Modifies provisions relating to elementary and secondary education

TELECOMMUNICATIONS

- HB 1741 Allows corporate board members to consent to certain actions by electronic transmission (VETOED)
HB 1750 Requires certain telephone companies to reduce intrastate exchange access rates

TOBACCO PRODUCTS

- SB 884 Amends various provisions of the Tobacco Master Settlement Agreement

TOURISM

- SB 795 Modifies various provisions regarding animals and agriculture
HB 2182 Defines the term "agritourism"

TRANSPORTATION

- SB 578 Allows port authority boards to establish port improvement districts to fund projects with voter-approved sales taxes or property taxes
HB 1941 Designates several portions of highways located within Missouri after deceased individuals

TRANSPORTATION DEPARTMENT

- SB 795 Modifies various provisions regarding animals and agriculture
HB 1941 Designates several portions of highways located within Missouri after deceased individuals

TREASURER, STATE

- SB 772 Removes the minimum time for holding investments in the Missouri higher education savings program
-

-
- HB 1524 Modifies laws connected to military forces
HB 1903 Establishes the Federal Budget Stabilization Extension Fund and the Race to the Top Fund (VETOED)

UNEMPLOYMENT COMPENSATION

- HB 1544 Allows the state to continue to receive extended federal unemployment benefit funds and extends participation in the shared work plan

UTILITIES

- SB 791 Modifies provisions pertaining to sewer and water utilities

VETERANS

- HB 1524 Modifies laws connected to military forces
HB 1893 Modifies provisions of law regarding excursion gambling boats

VETERINARIANS

- SB 795 Modifies various provisions regarding animals and agriculture
HB 1662 Authorizes the State Veterinarian to restrict the movement of animals or birds under investigation for carrying a toxin

WATER PATROL

- HB 1868 Modifies provisions relating to duties of agencies and officials operating within the executive branch.

WATER RESOURCES AND WATER DISTRICTS

- SB 791 Modifies provisions pertaining to sewer and water utilities
HB 1692 Modifies provisions relating to real estate broker and real estate salesperson licensing, unemployment compensation, deadly force, and other provisions of law
-

This page intentionally left blank.

**First Extraordinary Session
Ninety-Fifth General Assembly
2010**

ECONOMIC DEVELOPMENT

- HB 2 Establishes the Manufacturing Jobs Act which provides incentives for qualified manufacturing companies and qualified suppliers that create or retain Missouri jobs

RETIREMENT

- HB 1 Changes the laws regarding public retirement systems.
-

This page intentionally left blank.
